COMMISSION REGULATION (EEC) No 4137/88
of 29 December 1988
fixing the import levies on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products (1), as last amended by Regulation (EEC) No 1109/88 (2), and in particular Article 14 (8) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 14 of Regulation (EEC) No 804/68 provides for charging a levy on imports of the products listed in Article 1 of that Regulation; whereas these products may be divided into groups; whereas the product groups and the pilot groups and the pilot product for each of these groups are set out in Annex I to Council Regulation (EEC) No 2915/79 of 18 December 1979 determining the groups of products and the special provisions for calculating levies on milk and milk products (3), as last amended by Regulation (EEC) No 3609/88 (4);

Whereas the levy on the products in any one group must be equal to the threshold price for the pilot product less the free-at-frontier price; whereas these threshold prices were fixed for the 1988/89 milk year be Council Regulation (EEC) No 2235/88 (5);

Whereas, however, Regulation (EEC) No 2915/79 lays down special provisions for calculating the levy on certain assimilated products; whereas these products are listed and the method of calculating the levy on them described in Annex II and in Articles 2 to 12 of that Regulation respectively;

Whereas, as provided for in Regulation (EEC) No 2915/79, the component of the levy established using a factor expressing the weight ratio existing between the milk components contained in the product on the one hand and the product itself on the other is, for products containing sugar or other sweeteners, calculated by multiplying the basic amount by the quantity of milk components contained in the product;

Whereas Article 12 of Regulation (EEC) No 2915/79 provides that for certain products originating in or coming from certain third countries a specific levy is to be applied; whereas the levy applicable to those products is fixed in Annex I to Commission Regulation (EEC) No 1767/82 (6), as last amended by Regulation (EEC) No 3852/88 (7);

Whereas, for as long as it is found that on importation into the Community the price of an assimilated product for which the levy is not equal to the levy on its pilot product is considerably lower than the price which would obtain if the ratio to the price of the pilot product were normal, the levy must be equal to the sum of two components:

— one component equal to the amount resulting from the provisions of Articles 2 to 7 of Regulation (EEC) No 2915/79 applicable to the assimilated product in question,

— an additional component fixed at a level which, the composition and quality of the assimilated product being taken into account, makes it possible to re-establish normal price ratios for imports into the Community;

Whereas Article 14 (3) of Regulation (EEC) No 804/68 provides that the levy on products in respect of which the customs duty has been bound within GATT must be limited to the amount resulting from that binding;

Whereas Regulation (EEC) No 1073/68 (8), as amended by Regulation (EEC) No 222/88 (9), provides that a free-at-frontier price must be established for each of the pilot products defined in Annex I to Regulation (EEC) No 2915/79; whereas these prices must be determined for products of good marketable quality;

Whereas the free-at-frontier prices must be established on the basis of the most favourable purchasing opportunities in international trade for the products listed in Article 1 of Regulation (EEC) No 804/68 other than assimilated products for which the levy is not equal to the levy on the related pilot products; whereas, when recording these purchasing opportunities, the Commission must take account of all information obtained direct or through the Member States concerning prices for delivery of third-country products free-at-Community-frontier and prices on third-country markets;

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 110, 29. 4. 1988, p. 27.
(3) OJ No L 329, 24. 12. 1979, p. 1.
(4) OJ No L 315, 22. 11. 1988, p. 1.
(5) OJ No L 197, 26. 7. 1988, p. 37.
(6) OJ No L 196, 5. 7. 1982, p. 1.
(7) OJ No L 343, 13. 12. 1988, p. 10.
(8) OJ No L 180, 26. 7. 1968, p. 25.
(9) OJ No L 28, 1. 2. 1988, p. 1.

Whereas Regulation (EEC) No 788/86 (1), as last amended by Regulation (EEC) No 2431/88 (2), specifies the free-at-Spanish-frontier values of certain cheeses imported from and originating in Switzerland.

Whereas, however, no account should be taken of information relating to small quantities which are not representative of trade in the products in question and quantities in respect of which price trends in general or other information available to it lead the Commission to believe that the price in question is unrepresentative of the real trend of the market;

Whereas the prices used must be adjusted where they are not quoted free-at-Community-frontier or where they do not apply to products of good marketable quality; whereas the adjustment in respect of an assimilated product the levy on which is equal to the levy on its pilot product must be effected in such a way as to allow, in particular, for differences in composition, maturity, quality and presentation between the assimilated product and the related pilot product; whereas adjustments relating to composition must be calculated by multiplying the difference between the milk component content of the pilot product and that of the assimilated product in question by the value attributed in international trade to one unit of weight of the milk component in question; whereas, when the other adjustments are being effected, the difference between the value attributed on the Community market to each of the relevant characteristics of the pilot product and the value attributed on that market to the corresponding characteristics of the assimilated product in question must be taken into account;

Whereas, if no information on prices is available, the free-at-frontier price may, by way of exception, be established on the basis of the value of the raw materials contained in the pilot product in question (calculated on the basis of the prices of milk products for which prices are available), average processing costs and average yields;

Whereas, in exceptional circumstances, a free-at-frontier price may remain unchanged for a limited period where the new level of the price for a given quality or a specific origin, used as a basis for establishing the previous free-at-frontier price, has not reached the Commission to enable it to establish the next free-at-frontier price and if the Commission considers that the prices which are available could lead to sudden and considerable changes in the free-at-frontier price because they are not sufficiently representative of real market trends;

Whereas, in accordance with Article 19 (1) of Regulation (EEC) No 804/68, the nomenclature provided for in this Regulation is incorporated in the combined nomenclature;

Whereas Article 8 of Regulation (EEC) No 1073/68 provides that the levies are fixed every fortnight; whereas they may be altered in the intervening period if necessary; whereas the levy remains valid until another becomes applicable;

Whereas Regulation (EEC) No 2730/75 of the Council of 29 October 1975 on glucose and lactose (3) stipulates that the treatment provided for lactose and lactose syrup falling within CN code 1702 10 90 by Regulation (EEC) No 804/68 and by the provisions adopted for the application of that Regulation is to be extended to lactose and lactose syrup falling within CN code 1702 10 10; whereas consequently the levy fixed for products falling within CN code 1702 10 90 also applies to products falling within CN code 1702 10 10; whereas to ensure that the provision in question is properly applied these products and the levy thereon should be explicitly mentioned in the list of levies;

Whereas, if the levy system is to operate normally, refunds should be calculated on the following basis:

— in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the coefficient provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 (4), as last amended by Regulation (EEC) No 1636/87 (5),

— for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded over a given period in relation to the Community currencies referred to in the previous indent and the aforesaid coefficient;

Whereas it follows from applying these provisions that the levies on milk and milk products should be as set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

1. The import levies referred to in Article 14 of Regulation (EEC) No 804/68 shall be as set out in the Annex hereto.

2. There shall be no levy for imports from Portugal, including the Azores and Madeira, for milk and milk products listed in Article 1 of Regulation (EEC) No 804/68.

Article 2

This Regulation shall enter into force on 1 January 1989.

(1) OJ No L 74, 19. 3. 1986, p. 20.
(2) OJ No L 210, 3. 8. 1988, p. 6.
(3) OJ No L 281, 1. 11. 1975, p. 20.
(4) OJ No L 164, 24. 6. 1985, p. 1.
(5) OJ No L 153, 13. 6. 1987, p. 1.

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

Done at Brussels, 29 December 1988.

For the Commission
Frans ANDRIESSEN
Vice-President

ANNEX

to the Commission Regulation of 29 December 1988 fixing the import levies on milk and milk products

(ECU/100 kg net weight, unless otherwise indicated)

CN code	Note	Import levy
0401 10 10		15,97
0401 10 90		14,76
0401 20 11		22,44
0401 20 19		21,23
0401 20 91		28,25
0401 20 99		27,04
0401 30 11		73,77
0401 30 19		72,56
0401 30 31		143,12
0401 30 39		141,91
0401 30 91		241,43
0401 30 99		240,22
0402 10 11		107,28
0402 10 19		100,03
0402 10 91	(1)	1,0003/kg + 29,21
0402 10 99	(1)	1,0003/kg + 21,96
0402 21 11		150,94
0402 21 17		143,69
0402 21 19		143,69
0402 21 91		192,24
0402 21 99		184,99
0402 29 11	(1) (3)	1,4369/kg + 29,21
0402 29 15	(1)	1,4369/kg + 29,21
0402 29 19	(1)	1,4369/kg + 21,96
0402 29 91	(1)	1,8499/kg + 29,21
0402 29 99	(1)	1,8499/kg + 21,96
0402 91 11		31,42
0402 91 19		31,42
0402 91 31		39,27
0402 91 39		39,27
0402 91 51		143,12
0402 91 59		141,91
0402 91 91		241,43
0402 91 99		240,22
0402 99 11		53,76
0402 99 19		53,76
0402 99 31	(1)	1,3949/kg + 25,59
0402 99 39	(1)	1,3949/kg + 24,38
0402 99 91	(1)	2,3780/kg + 25,59
0402 99 99	(1)	2,3780/kg + 24,38

(ECU/100 kg net weight, unless otherwise indicated)

CN code	Note	Import levy
0403 10 11		24,85
0403 10 13		30,66
0403 10 19		76,18
0403 10 31	(1)	0,1881/kg + 28,00
0403 10 33	(1)	0,2462/kg + 28,00
0403 10 39	(1)	0,7014/kg + 28,00
0403 90 11		107,28
0403 90 13		150,94
0403 90 19		192,24
0403 90 31	(1)	1,0003/kg + 29,21
0403 90 33	(1)	1,4369/kg + 29,21
0403 90 39	(1)	1,8499/kg + 29,21
0403 90 51		24,85
0403 90 53		30,66
0403 90 59		76,18
0403 90 61	(1)	0,1881/kg + 28,00
0403 90 63	(1)	0,2462/kg + 28,00
0403 90 69	(1)	0,7014/kg + 28,00
0404 10 11		18,07
0404 10 19	(1)	0,1807/kg + 21,96
0404 10 91	(2)	0,1807/kg
0404 10 99	(2)	0,1807/kg + 21,96
0404 90 11		107,28
0404 90 13		150,94
0404 90 19		192,24
0404 90 31		107,28
0404 90 33		150,94
0404 90 39		192,24
0404 90 51	(1)	1,0003/kg + 29,21
0404 90 53	(1)	1,4369/kg + 29,21
0404 90 59	(1)	1,8499/kg + 29,21
0404 90 91	(1)	1,0003/kg + 29,21
0404 90 93	(1)	1,4369/kg + 29,21
0404 90 99	(1)	1,8499/kg + 29,21
0405 00 10		248,90
0405 00 90		303,66
0406 10 10		259,17
0406 10 90		311,09
0406 20 10	(3)	386,75
0406 20 90		386,75
0406 30 10	(3)	200,45
0406 30 31	(3)	196,03
0406 30 39	(3)	200,45
0406 30 90	(3)	297,17
0406 40 00	(3)	157,44
0406 90 11	(3)	246,07

(ECU/100 kg net weight, unless otherwise indicated)

CN code	Note	Import levy
0406 90 13	(3)	236,37
0406 90 15	(3)	236,37
0406 90 17	(3)	236,37
0406 90 19	(3)	386,75
0406 90 21	(3)	246,07
0406 90 23	(3)	214,37
0406 90 25	(3)	214,37
0406 90 27	(3)	214,37
0406 90 29	(3)	214,37
0406 90 31	(3)	214,37
0406 90 33		214,37
0406 90 35	(3)	214,37
0406 90 37	(3)	214,37
0406 90 39	(3)	214,37
0406 90 50	(3)	214,37
0406 90 61		386,75
0406 90 63		386,75
0406 90 69		386,75
0406 90 71		259,17
0406 90 73		214,37
0406 90 75		214,37
0406 90 77		214,37
0406 90 79		214,37
0406 90 81		214,37
0406 90 83		214,37
0406 90 85		214,37
0406 90 89	(3)	214,37
0406 90 91		259,17
0406 90 93		259,17
0406 90 97		311,09
0406 90 99		311,09
1702 10 10		36,85
1702 10 90		36,85
2106 90 51		36,85
2309 10 15		77,44
2309 10 19		100,45
2309 10 39		94,59
2309 10 59		79,13
2309 10 70		100,45
2309 90 35		77,44
2309 90 39		100,45
2309 90 49		94,59
2309 90 59		79,13
2309 90 70		100,45

(1) The levy on 100 kg of product falling within this subheading is equal to the sum of the following:

(a) the amount per kilogram shown, multiplied by the weight of milk and milk cream contained in 100 kg of product; and

(b) the other amount indicated.

(2) The levy on 100 kg of product falling within this subheading is equal to:

(a) the amount per kilogram shown, multiplied by the weight of the dried milk contained in 100 kg of product plus, where appropriate,

(b) the other amount indicated.

(3) Products falling within this subheading imported from a third country under special arrangements concluded between that country and the Community for which an IMA 1 certificate issued under the conditions provided for in Regulation (EEC) No 1767/82 is issued are subject to the levies in Annex I to that Regulation.