COMMISSION REGULATION (EEC) No 2893/92

of 2 October 1992

on the application of a minimum import price for frozen strawberries originating in Poland

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1333/92 of 18 May 1992 on the system of minimum import prices for certain soft fruits originating in Hungary, Poland and Czechoslovakia [1], and in particular Article 2 thereof,

Whereas Article 4 of Commission Regulation (EEC) No 1498/92 of 10 June 1992 laying down detailed rules for the application of the minimum import price system for certain soft fruits originating in Hungary, Poland and the Czech and Slovak Federal Republic and fixing the minimum import prices applicable until 31 May 1993 [2] provides that the Commission is to adopt any necessary measures if the minimum import price is not complied with; whereas information available to the Commission shows clearly that the unit value of frozen strawberries originating in Poland has been well below the minimum import price fixed in Regulation (EEC) No 1498/92 for the period stipulated; whereas the Community market is being disturbed by this circumstance and, furthermore, the minimum import price has not been complied with for the three-month period in question,

HAS ADOPTED THIS REGULATION:

Article 1

A countervailing charge is hereby introduced on imports into the Community of frozen strawberries originating in Poland falling within CN codes ex 0811 10 90 (Taric codes 0811 10 90*10 and 0811 10 90*90), equal to the difference between the minimum import price as fixed in the Annex to Regulation (EEC) No 1498/92 and the actual import price.

The minimum import price set for the products indicated as 'whole fruit' shall apply to whole IQF frozen fruit of Class I or 'Extra' Class. It shall also apply to other whole fruits which are not accompanied on release for free circulation in the Community by a clear indication on the quality class.

Article 2

1. The minimum import price shall be deemed not to be complied with when the import price expressed in the currency of the Member State in which the product is released for free circulation is less than the minimum import price applicable on the day on which the declaration of release for free circulation is accepted.

2. The following factors shall constitute the import price:

(a) the fob price in the country of origin; and

(b) transport and insurance costs to the point of entry into the customs territory of the Community.

3. For the purposes of paragraph 2, 'fob price' means the price paid or to be paid for the quantity of products contained in a consignment, including the cost of loading a consignment onto a means of transport at the place of shipment in the country of origin and other costs incurred in that country. The fob price shall not include the cost of any services to be borne by the seller from the time that the products are placed on board the means of transport.

4. Payment of the price to the seller shall be effected not later than three months after the day on which the declaration of the release for free circulation is accepted by the customs authorities.

5. Where the factors referred to in paragraph 2 are expressed in a currency other than that of the importing Member State, the provisions on the valuation of goods for customs purposes shall be applied when converting such currency into the currency of the importing Member State.

Article 3

1. At the time of completion of the customs import formalities for release for free circulation, the customs authorities shall compare the import price of each consignment with the minimum import price.

2. The import price shall be indicated on the declaration of release for free circulation and the declaration shall be accompanied by all the documents required to verify the price.

3. In cases where:

(a) the invoice presented to the customs authorities has not been drawn up by the exporter in the country in which the products originated;

or

(b) the authorities are not satisfied that the price declared in the declaration reflects the actual import price;

or

(c) payment has not been effected within the time limit provided for in Article 2 (4);

[1] OJ No L 145, 27. 5. 1992, p. 3.
[2] OJ No L 158, 11. 6. 1992, p. 15.

the competent authorities shall take the necessary measures to determine the actual import price, in particular by reference to the importer's resale price.

Article 4

The importer shall retain evidence of payment to the seller. That evidence and all commercial documents, in particular invoices, contracts and correspondence concerning the purchase and sale of the products, shall be kept available for examination by the customs authorities for a period of three years.

Article 5

1. This Regulation shall not apply to products for which it can be shown that they have left the country of origin before the day of publication of this Regulation.

2. The parties concerned shall provide proof, to the satisfaction of the competent authorities, that the condition set out in paragraph 1 has been complied with.

However, the competent authorities may regard the products as having left the country of origin before the day of publication of this Regulation if one of the following documents is submitted :

— in the case of transport by sea or waterway, the bill of lading showing that loading took place before that day,

— in the case of transport by rail, the consignment note accepted by the railways of the expediting country before that day,

— in the case of transport by road, the TIR (international road transport) carnet issued by the customs office in the country of origin before that day,

— in the case of transport by air, the air consignment note showing that the airline received the products before that day.

3. Paragraphs 1 and 2 shall apply only in so far as the declaration of release for free circulation has been accepted by the customs authorities before 1 December 1992.

Article 6

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

It shall apply until 31 December 1992.

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

Done at Brussels, 2 October 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission