COMMISSION REGULATION (EEC) No 2169/93

of 2 August 1993

on the application of a minimum price for certain soft fruits 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 1988/93 of 19 July 1993 on the system of minimum import prices for certain soft fruits originating in Hungary, Poland, the Czech Republic, Slovakia, Romania and Bulgaria, and in particular Article 2 thereof,

Whereas, following the signing of the Association Agreements with Romania and Bulgaria, and in particular Article 2 thereof,

Whereas, following the signing of the Association Agreements with Romania and Bulgaria [1] the Council extended to those two countries the system of minimum import prices for certain soft fruits already aplicable to other east European countries; whereas the Council, by Regulation (EEC) No 1988/93, repealed Regulation (EEC) No 133/92 of 18 May 1992 on the system of minimum import prices for certain soft fruits originating in Hungary, Poland and Czechoslovakia [2] in order to lay down in a new text the system aplicable to all the east European countries concerned;

Whereas Article 4 of Commission Regulation (EEC) No 2140/93 of 28 July 1993 laying down detailed rules for the application of the minimum import price system for certain soft fruits originating in Hungary, Poland, the Czech Republic, Slovakia, Romania and Bulgaria and the minimum prices applicable until 30 April 1994 [3] provides that the Commission is to adopt any necessary measures if certain criteria are not complied with;

Whereas, by Commission Regulation (EEC) No 1798/93 of 5 July 1993 on the application of a minimum import price for certain soft fruits originating in Poland [4], the Commission decided to ensure that each consignment of certain soft fruits originating in Poland complied with the minimum price by levying countervailing charges; whereas, on the basis of recent information received by the Commission relating to a new two-week period, it is clear that, bearing in mind the quantities imported and the import price, one of the criteria is not being complied with in respect of certain other soft fruit originating in Poland; whereas, as a matter of urgency, countervailing charges should therefore be implemented immediately for a period of two months for these products;

Whereas, in the interests of clarity, a single Regulation should be made to cover all products originating in Poland which are subject to a minimum price for each consignment imported, and Regulation (EEC) No 1798/93 should be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

A countervailing charge is hereby introduced, for the periods indicated, on imports into the Community of the products listed in the Annex hereto originating in Poland, equal to the difference between the minimum prices as fixed in the Annex to Regulation (EEC) No 2140/93 and the actual import price.

Article 2

1. The minimum import price shall be deemed not to be complied with when the import prices 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 th price paid or to be paid for the quantity of products contained in a consignment including the cost of loading a consignment into 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.

[1] OJ No L 182, 24. 7. 1993, p. 4.
[2] OJ No L 145, 27. 5. 1992, p. 3.
[3] OJ No L 191, 31. 7. 1993, p. 98.
[4] OJ No L 163, 6. 7. 1993, p. 31.

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 for 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) ;

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, contract 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 date on which the minimum price applies.

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 date in question if one of the following documents is submitted :

— in the case of transport by sea over waterway, the bill of loading showing that loading took place before that date,

— in the case of transport by rail, the consignment not 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 not showing that the airline received the products before the 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 not later than 25 days from the start of application of the minimum price per consignment of each of the products concerned imported.

Article 6

Regulation (EEC) No 1798/93 is hereby repealed.

Article 7

This Regulation shall enter into force on the day of 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 August 1993.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

CN code	Description	Taric code	Period of application
ex 0811 20 39	Frozen blackcurrants not containing added sugar or other sweetening matter : without stalks	0811 20 39*10	3 August to 2 October 1993
ex 0811 20 39	Frozen blackcurrants not containing added sugar or other sweetening matter : other	0811 20 39*90	6 July to 5 September 1993
ex 0811 20 51	Frozen redcurrants not containing added sugar or other sweetening matter : without stalks	0811 20 51*10	
ex 0811 20 51	Frozen redcurrants not containing added sugar or other sweetening matter : other	0811 20 51*90	