COMMISSION REGULATION (EC) No 1854/94

of 27 July 1994

laying down detailed rules for the application of Council Regulation (EC) No 774/94 in relation to import licences for quality wheat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 774/94 of 29 March 1994 opening and providing for the administration of certain Community tariff quotas for high-quality beef, and for pigmeat, poultrymeat, wheat and meslin, and brans, sharps and other residues [1], and in particular point (c) of Article 7 thereof,

Whereas Article 5 of Regulation (EC) No 774/94 opened an annual Community tariff quota of a total volume of 300 000 tonnes of quality wheat falling within CN codes 1001 10 00 and 1001 90 99 within which the variable levy was set at 0 % ;

Whereas imports of such wheat should be subject to the presentation of an import licence ; whereas it is necessary to specify the conditions for the granting of such licences ;

Whereas, in order to ensure the proper administration of the imports, a system of guarantees should be introduced, whereas in view of the likelihood of speculation inherent in the system because no levy is payable, access to such imports should be limited to those who lodge a guarantee to import the wheat in question within five days of being issued with an import licence, and who prove that they have carried on a commercial activity in the cereals sector for at least 12 months and are registered in the Member State where the application is made ;

Whereas provisions governing the organization of the imports and, in particular, those relating to notices inviting applications for import licences and defining the quality standard to be met shall be adapted in accordance with the procedure laid down in Article 23 of Council Regulation (EEC) No 1766/92 [2], as amended by Commission Regulation (EEC) No 2193/93 [3] ;

Whereas the Management Committee for cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION :

Article 1

1. The importation of 300 000 tonnes of quality wheat falling within CN codes 1001 90 99 (of a minimum protein content of 14,6 % at 13,5 % moisture) and 1001 10 00, which are subject to a variable levy of 0 %, provided for in Article 5 (1) of Regulation (EC) No 774/94, shall be subject to an import licence being obtained in accordance with this Regulation.

2. The provisions of Commission Regulation (EEC) No 3719/88 [4] shall apply, save as otherwise provided in this Regulation.

Article 2

1. An application for an import licence in relation to the quantity referred to in Article 1 (1) shall be admissible provided it complies with the following conditions :

(a) it relates to a quantity of between 1 000 tonnes at least and 10 000 tonnes at most of the wheat to be imported ;

(b) where the application is submitted by an agent, it contains the name and address of the principal ; and

(c) it is accompanied by :

— proof that the applicant is a natural or legal person and has, for at least 12 months, carried on a commercial activity in the cereals sector, and that the applicant is registered in the Member State where the application is made,

— proof that a guarantee has been lodged of ECU 5 per tonne with the competent authority of the Member State concerned guaranteeing good faith on the part of the applicant,

— a written undertaking by the applicant to provide a guarantee, at the latest at the time of issue of the import licence, that the wheat in question will be imported within five days from the date of issue of the import licence, of an amount equal to the levy provided for in Article 10 of Regulation (EEC) No 1766/92 applicable on the day the application is made, and

— a written declaration by the applicant that he has made only one application. In the event that an applicant submits more than one application for an import licence in relation to the same import tranche of each time of wheat, all his applications shall be inadmissible.

[1] OJ No L 91, 8. 4. 1994, p. 1.
[2] OJ No L 181, 1. 7. 1992, p. 21.
[3] OJ No L 196, 5. 8. 1993, p. 22.
[4] OJ No L 331, 2. 12. 1988, p. 1.

2. Any application where one or more of its terms differ from those provided for in the notice inviting applications for import licences shall also be inadmissible.

3. Subject to Article 3 (5), an application may not be withdrawn.

Article 3

1. Member States shall notify the Commission by telex, fax or telegram within a period of two workings days from the last day for submitting an application :

— of the number of admissible applications submitted,

— of the quantity of wheat in respect of which applications for licences have been submitted, and

— of the names and addresses of the applicants.

2. Within three workings days of the end of the notification period referred to in paragraph 1, the Commission shall notify Member States whether licences may or may not be issued in respect of the total quantity of wheat for which applications have been submitted. In the event that that quantity exceeds the quantity of one or other type of wheat to be imported during the period concerned, the commission shall notify Member States by what percentage(s) they must scale down the quantities applied for when issuing licences.

3. The issue of import licences shall be subject to production of proof by the applicant that the guarantee provided for in the third indent of point (c) of Article 2 (1) has been lodged.

4. Import licences shall be issued as soon as possible after the notification by the Commission to Member States, provided for in paragraph 2, and in any event within three working days.

Notwithstanding the second subparagraph of Article 5 (2), import licences shall be valid for a period limited to five days.

5. If the percentage by which quantities are to be scaled down is greater than 50 %, the applicant may withdraw his application on receipt of the import licence and the licence shall thereby be cancelled.

Article 4

The import licence shall contain the following indications and be subject to the following conditions :

— Sections 7 and 8 shall indicate, respectively, the country of provenance and the country of origin of the wheat concerned,

— in Sections 7 and 8, the indication 'yes' shall be marked with a cross,

— in Section 9, the indication 'no' shall be marked with a cross,

— by derogation from Article 8 (4) of Regulation (EEC) No 3719/88, the quantity placed in free circulation shall not exceed that stated in Sections 17 and 18, and the figure 0 shall accordingly be entered in Section 19,

— Section 20 shall contain one of the following indications :

  — Hård/Blød hvede, KN-kode 1001 10 00/100 90 99, af kvalitet som fastsat i forordning (EF) nr. 1854/94,

  — Hart-/Weichweizen der KN-Codes 1001 10 00/ 1001 90 99 von einer Qualität gemäß den Bestimmungen der Verordnung (EG) Nr. 1854/94,

  — Σκληρός/Μαλακός σίτος, κωδικός ΣΟ 1001 10 00/1001 90 99, του οποίου η ποιότητα είναι σύμφωνη με τις διατάξεις του κανονισμού (ΕΚ) αριθ. 1854/94,

  — Durum/Common wheat CN code 1001 10 00/ 1001 90 99, of which the quality conforms with the provisions of Regulation (EC) No 1854/94,

  — Blé dur/tendre du code NC 1001 10 00/ 1001 90 99, de qualité conforme aux dispositions du règlement (CE) n° 1854/94,

  — Frumento duro/tenero, codice NC 1001 10 00/ 1001 90 99, di qualità conforme a quanto prescritto dal regolamento (CE) n. 1854/94,

  — Harde/zachte tarwe, GN-code 1001 10 00/ 1001 90 99, waarvan de kwaliteit aan de bepalingen van Verordening (EG) nr. 1854/94 beantwoordt,

  — Trigo duro/mole do código NC 1001 10 00/ 1001 90 99, de qualidade conforme às disposições do Regulamento (CE) nº 1854/94,

  — Trigo duro/común, código NC 1001 10 00/ 1001 90 99, cuya calidad cumple con lo dispuesto en el Reglamento (CE) n° 1854/94,

— Section 24 shall contain one of the following indications :

  — Nulafgift. Toldkontingent for kvalitetshvede, åbnet i henhold til forordning (EF) nr. 774/94,

  — Abschöpfungsfrei. Mit der Verordnung (EG) Nr. 774/94 des Rates eröffnetes Zollkontingent,

  — Εισφορά μηδέν. Άνοιξε δασμολογική ποσόστωση για το σιτάρι ποιότητας βάσει του κανονισμού (ΕΚ) αριθ. 774/94 του Συμβουλίου,

  — Zero levy. Tariff quota for quality wheat opened under Council Regulation (EC) No 774/94,

  — Prélèvement zéro. Contingent tarifaire de blé de qualité ouvert par le règlement (CE) n° 774/94 du Conseil,

  — Prelievo fissato allo 0 %. Contingente tariffario di frumento di qualità aperto a norma del regolamento (CE) n. 774/94 del Consiglio,

  — Nulheffing. Tariefcontingent voor kwaliteitstarwe geopend bij Verordening (EG) nr. 774/94 van de Raad,

  — Direito nivelador 0. Contingente pautal do trigo de qualidade aberto pelo Regulamento (CE) nº 774/94 do Conselho,

  — Exacción reguladora cero. Contingente arancelario para el trigo de calidad abierto de acuerdo con el Reglamento (CE) n° 774/94,

— by derogation from Article 8 of Commission Regulation (EEC) No 891/89 [1], the licence shall be valid from its date of issue, within the meaning of Article 21 (1) of Regulation (EEC) No 3719/88,

— by derogation from Regulation (EEC) No 3719/88, rights in relation to the licence shall not be transferable.

Article 5

1. The guarantee of good faith provided for in the second indent of point (c) of Article 2 (1) shall be released at the time the certificate is issued.

2. The guarantee provided for in the third indent of point (c) of Article 2 (1) shall be released on production of proof that the wheat concerned has been imported within five days from the date of issue of the import licence.

If the period of five days provided for the first subparagraph is exceeded by one day, 50 % of the guarantee shall be released. If the period is exceeded by two days, only 25 % of the guarantee shall be released.

Article 6

1. Member States shall notify the Commission by telex, fax or telegram :

(a) at the latest within two working day following the issue of import licences, of the quantity of wheat for which licences have been issued, together with the date of issue, the country of provenance and the country of origin of the product, and the name and address of the licence holder ;

(b) in the event that a licence is cancelled, of the quantity of wheat in respect of which licences have been cancelled, together with the names and addresses of the holders of those licences, at the latest within two working days of cancellation ; and

(c) by the last working day of each month following the placing of the wheat in free circulation, of the information referred to in point (a) and concerning the quantity of wheat, apportioned by country of origin, which has been placed in free circulation.

2. The notifications referred to in paragraph 1 shall be made even where no application has been submitted, no licence has been issued or no imports have taken place.

Article 7

This Regulation shall enter into force on the third 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, 27 July 1994.

For the Commission

René STEICHEN

Member of the Commission

[1] OJ No L 94, 7. 4. 1989, p. 13.