COMMISSION REGULATION (EC) No 2754/94

of 11 November 1994

on the monitoring system of deliveries to Norway of certain agricultural products from other Member States

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Norway, Austria, Finland and Sweden, and in particular Article 149 (1) thereof,

Whereas the Norwegian markets for meat products, flour, compound feedingstuffs, processed carrots and peas and dairy products, other than butter, skimmed-milk powder and soft cheeses, are protected and almost completely closed to imports; whereas account must be taken of the particular restructuring problems of these sectors in Norway;

Whereas, in order to prevent market disturbances liable to aggravate such problems, Declaration No 14 annexed to the Act of Accession provides for the application for three years of a monitoring system and indicative ceilings; whereas additional guidelines agreed by the Conference of Plenipotentiaries provide that detailed rules for the said system must be prepared during the interim period;

Whereas preventive application of the system in order to detect in good time any risk of disturbance to the Norwegian market due to consignments of the products concerned from other Member States is the sole way of ensuring a smooth transition from the system applied to such products in Norway prior to accession to the system based on the common organization of markets; whereas it is only in the context of stable market monitoring arrangements that it will be possible to avert disturbances liable to jeopardize the restructuring of the sectors concerned in Norway;

Whereas Norway has asked for such a system to be set up;

Whereas a system based on the issue of import certificates by the Norwegian authorities, coupled with the obligation for the said authorities to make a detailed analysis of the market situation as soon as an indicative ceiling is reached, should ensure appropriate monitoring; whereas, in particular, such a system should permit the detection in good time of any situation warranting, where necessary, the application of the protective measures provided for in Article 147 of the Act of Accession;

Whereas application of the said system requires administrative and monitoring measures and the application of penalties for which the principal responsibility must lie with the Norwegian authorities; whereas, in the framework of the monitoring measures to be applied after the achievement of the single market, the Norwegian authorities should be in the position to identify the persons responsible for first marketing following physical importation as well as any other holder of the products in question;

Whereas the other Member States should afford the Norwegian authorities the necessary collaboration if, in the event of irregularities, the responsibility of undertakings established in their territory is in question;

Whereas the measures adopted by the Norwegian authorities should be notified to the Commission;

Whereas the measures provided for in this Regulation are in accordance with the opinions of all the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation establishes, for a period of three years, a system of monitoring of deliveries to Norway of the products listed in the Annex from other Member States in order to detect in good time any risk of disturbance to the Norwegian market liable to jeopardize the necessary restructuring of the sectors of those products.

Article 2

For each product or group of products listed in the Annex an indicative ceiling for deliveries from Member States:

(a) is, for the years 1995 and 1996, fixed in the said Annex;

(b) will be fixed for the 1997 year:

— in accordance with the procedure provided for in Article 23 of Council Regulation (EEC) No 1766/92 [1] or, depending on the case, in the corresponding Article in other Regulations setting up common market organizations,

— on the basis of a forecast concerning production and consumption in Norway as well as the development of trade in that country,

[1] OJ No L 181, 1. 7. 1992, p. 21.

— at a level which constitutes a progressive movement in comparison with the previous year in order to ensure the balanced opening of the Norwegian market and the achievement of free movement within the Community on 1 January 1998.

The indicative ceilings may be amended to take into account the market situation in accordance with the procedure referred to in the first indent of point (b) of the first paragraph.

Article 3

1. Within the framework of the monitoring system, Norway may require the delivery of products from other Member States to be subject to the issue of an import certificate authorizing the product to be marketed in Norway.

2. In the context of a certificate system, Norway:

(a) may restrict the access of market operators only by providing that the applicant for an import certificate must be a natural or legal person who, at the time of application, is registered officially in a Member State and has been trading for not less than twelve months in the sector concerned;

(b) may require from certificate holders the name and address of the operators responsible for the first sale of the products in Norway;

(c) may stipulate that:

— certificates are to be issued, at once or after a period of reflection, either:

— in the order applications were lodged, or

— on fixed dates,

— the said certificates may be issued to each operator only for specified quantities and applications may be lodged only by operators acting on their own behalf,

— the delivery of certificates is conditional on the provision of a security ensuring compliance with the undertaking to market in Norway during the period of validity of the certificate, this security being forfeit in full or in part, except in cases amounting to *force majeure*, if the operation is not carried out during this period or is only partially carried out taking into account a tolerance of the order of 5 %;

(d) shall fix the period of validity of the certificates.

3. Without prejudice to the application of paragraph 1 to products in respect of which a certificate is not provided for where they are imported from third countries, measures taken in respect of products from Member States may not restrict access to the Norwegian market more than measures applied in respect of products from third countries.

Article 4

If the quantities for which a certificate is applied for exceed the indicative ceiling for a given product:

(a) the Norwegian authorities shall analyse the market situation for the product concerned on the basis of:

— prices on the domestic market and their foreseeable trend in relation to the situation and trend in the rest of the Community,

— the foreseeable trend of domestic demand,

— the present or foreseeable volume of imports and exports,

— the availability of the product on the market,

— the risk of damage to national industry, taking account also of the evolution of the costs of raw materials;

(b) the necessary protective measures, and in particular the reduction or suspension of the issue of certificates, are to be taken by the Commission within the context of the procedure for in Article 147 of the Act of Accession, if, in the light of the information provided by the Norwegian authorities, the Commission considers that the conditions for applying that Article are fulfilled.

Article 5

1. Norway:

(a) may divide the indicative ceilings into several periods during the course of the year;

(b) shall designate the authorities competent to apply the system provided for in this Regulation, in particular the issue of certificates;

(c) shall determine the procedures for recording quantities effectively delivered and the declarations and reports to be supplied by operators;

(d) shall establish appropriate monitoring systems and procedures on the basis of administrative checks and, where necessary, checks at places of marketing. Such measures:

— shall include, in particular, the obligation for operators to keep stock records and the auditing of commercial documents,

— shall exclude any form of checks at frontiers between Member States,

— may include the registration of persons (whether natural or legal) who hold or who will hold in Norway the products listed in the Annex;

(e) shall determine penalties proportional to infringements committed, to be applied in cases of irregularity or fraud in the application of the system.

2. The authorities of the other Member States, in accordance with Council Regulation (EEC) No 1468/81 [1], shall afford the Norwegian authorities such collaboration as is necessary, in particular in cases where checks show responsibility on the part of undertakings established in their territory.

Article 6

1. Norway shall communicate to the Commission the draft measures which it envisages taking in application of the second and third indents of point (c) and point (d) of Article 3 (2).

Such measures cannot be put into force until after approval by the Commission.

If, within a period of one month from receipt of the communication, the Commission has not expressed any observations regarding the measures, they may be put into force.

However, measures communicated before 1 January 1995 may be put into force while the position of the Commission is being awaited. They will be modified on the Commission's request and within the time limit indicated in that request.

2. The measures referred to in paragraph 1, as well as any other measure adopted by Norway in application of this Regulation, shall be communicated to the Commission and to the other Member States as soon as they are adopted.

3. Norway shall notify the Commission periodically of the quantities in respect of which :

— import certificates have been applied for,

— import certificates have been used.

This information shall be communicated at least three times a year, by 10 May and 10 September and, in the years 1996 and 1997, by 10 January. It shall relate to certificates applied for or used during the preceding four months.

Article 7

This Regulation shall enter into force simultaneously with the Act of Accession.

It shall apply for three years from the date of its entry into force.

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

Done at Brussels, 11 November 1994.

For the Commission

René STEICHEN

Member of the Commission

[1] OJ No L 144, 2. 6. 1981, p. 1.

ANNEX

(in tonnes)

CN code	Description	Indicative ceiling	
		1995	1996
	I. MEAT PRODUCTS		
	A. *Beef and veel*		
0201 10 00 0201 20 20 0201 20 30 0201 20 50	Meat of bovine animals, carcases, half-carcases or quarters with bone in, fresh or chilled	255	384
0202 10 00 0202 20 10 0202 20 30 0202 20 50	Meat of bovine animals, carcases, half-carcases or quarters with bone in, frozen		
0201 20 90 0201 30 00	Meat of bovine animals, presented in other cuts, fresh or chilled	1 156	1 742
0202 20 90 0202 30 10 0202 30 50 0202 30 90	Meat of bovine animals, presented in other cuts, frozen		
0210 20 10 0210 20 90	Meat of bovine animals, salted or in brine, dried or smoked	1 330	2 004
1602 50 10 1602 50 31 1602 50 39 1602 50 80 1602 90 61 1602 90 69	Other prepared or preserved meat, offal or blood of bovine animals		
	B. *Pigmeat*		
ex 0203 11	Meat of domestic swine, carcases and half-carcases, fresh or chilled	335	552
ex 0203 21	Meat of domestic swine, carcases and half-carcases, frozen		
ex 0203 12 ex 0203 19 ex 0203 22 ex 0203 29	Meat of domestic swine, fresh, chilled or frozen	1 871	3 873
0209 00 11 0209 00 19 0209 00 30	Pig fat, fresh, chilled, frozen, salted or in brine, dried or smoked		
ex 0210 11 ex 0210 12 ex 0210 19	Meat of domestic swine, salted or in brine, dried or smoked		
1601 00 1602 20 90 ex 1602 41 ex 1602 42 ex 1602 49 1602 90 51	Sausages and other preparations of meat of domestic swine	7 681	11 953
	C. *Sheepmeat and goatmeet*		
0204 10 00 0204 21 00 0204 30 00 0204 41 00 0204 50 11 0204 50 51	Carcases of sheep or goats, fresh chilled or frozen	530	774

(in tonnes)

CN code	Description	Indicative ceiling	
		1995	1996
0204 22 0204 23 0204 42 0204 43 0204 50 13 0204 50 15 0204 50 19 0204 50 31 0204 50 39 0204 50 53 0204 50 55 0204 50 59 0204 50 71 0204 50 79	Meat of sheep or goats, fresh, chilled or frozen	359	525
ex 0210 90 1602 90 71 1602 90 79	Meat and edible meat offal of sheep or goats, salted or in brine, dried or smoked, including edible flours and meals of meat or offal Other prepared and preserved meat or offal of sheep or goats	246	359
	D. *Poultry*		
0207 10 11 0207 10 15 0207 10 19 0207 21 0207 10 31 0207 10 39 0207 22 ex 0207 39 ex 0207 41 ex 0207 42 1602 31 ex 1602 39	Fouls of the species *Gallus domesticus* not cut in pieces, fresh, chilled or frozen Turkeys not cut in pieces, fresh, chilled or frozen Pieces of fouls of the species *Gallus domesticus* and of turkey, fresh or chilled Pieces of fouls of the species *Gallus domesticus*, frozen Turkey pieces, frozen Turkey pieces, frozen Prepared turkey Prepared chicken	1 835	3 049
0207 10 51 0207 10 55 0207 10 59 0207 10 71 0207 10 79 0207 23 11 0207 23 19 0207 23 51 0207 23 59 ex 0207 39 ex 0207 43 ex 1602 39	Ducks and geese not cut in pieces, fresh, chilled or frozen Pieces of ducks and gees, fresh or chilled Pieces of ducks and geese, frozen Prepared ducks and geese	28	39
	E. *Reindeer*		
ex 0208 90 90 ex 0210 90 ex 1602	Meat and edible meat offal of reindeer : — fresh, chilled or frozen — salted or in brine, dried or frozen — prepared or preserved, other than sausages and similar products	100	160
	II. MILK PRODUCTS		
ex 0401	Milk, not concentrated nor containing added sugar or other sweetening matter	39 457	65 735
ex 0401	Cream, not concentrated nor containing added sugar or other sweetening matter	1 616	2 656

(in tonnes)

CN code	Description	Indicative ceiling 1995	Indicative ceiling 1996
ex 0402	Milk and cream, concentrated, of a fat content, by weight, exceeding 1,5 %	741	1 206
ex 0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated, not flavoured or containing added fruits, nuts or cocoa	2 401	3 765
ex 0406 10	Fresh (unripened or uncured) cheese, including whey cheese, and curd (1)	1 288	2 000
0406 20	Grated or powdered cheese (1)		
ex 0406 30	Processed cheese, not grated or powdered (1)		
0406 40	Blue-veined cheese (1)		
ex 0406 90	Other cheeses (1)	3 136	4 710
	III. FRUIT AND VEGETABLES		
	A. *Peas*		
0710 21 00	Uncooked or cooked by steaming or boiling in water, frozen	310	400
ex 2004 90 50	Prepared or preserved otherwise than by vinegar or acetic acid, frozen		
2005 40 00	Prepared or preserved otherwise than by vinegar or acetic acid, not frozen		
	B. *Carrots*		
ex 0710 80 95	Uncooked or cooked by steaming or boiling in water, frozen	230	300
ex 0711 90 70	Provisionally preserved but unsuitable in that state for immediate consumption		
2005 90 60	Prepared or preserved otherwise than by vinegar or acetic acid, not frozen		
	C. *Vegetable mixtures, provided they contain at least 15 % by weight of peas and/or carrots*		
ex 0710 90 00	Uncooked or cooked by steaming or boiling in water, frozen	560	1 100
ex 0711 90 90	Provisionally preserved but unsuitable in that state for immediate consumption		
ex 2004 90 99	Prepared or preserved otherwise than by vinegar or acetic acid, frozen		
ex 2005 90 70	Prepared or preserved otherwise than by vinegar or acetic acid, not frozen		
	IV. FLOUR		
1101 00 00	Wheat or meslin flour	14 100	27 570
1102 10 00	Rye flour	1 467	2 868
1102 90 10	Barley flour		
1102 90 30	Oat flour		
	V. COMPOUND FEEDINGSTUFFS		
2308	Vegetable materials and vegetable waste, vegetable residues and by-products, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included	84 825	164 459
2309 90 93	Premixtures		
2309 90 98	Other preparations, not including dog and cat food		

(1) Except soft cheeses as defined in the *Codex Alimentarius*, i.e. cheeses with a moisture content by weight in the non-fat matter of more than 67 %