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COMMISSION REGULATION (EC) No 1249/96
of 28 June 1996
on rules of application (cereal sector import duties) for Council Regulation (EEC) No 1766/92

(OJ L 161, 29.6.1996, p. 125)

Amended by:

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►**M1**	Commission Regulation (EC) No 641/97 of 14 April 1997	L 98	2	15.4.1997
►**M2**	Commission Regulation (EC) No 2092/97 of 24 October 1997	L 292	10	25.10.1997
►**M3**	Commission Regulation (EC) No 2519/98 of 24 November 1998	L 315	7	25.11.1998
►**M4**	Commission Regulation (EC) No 2235/2000 of 9 October 2000	L 256	13	10.10.2000

Corrected by:

►**C1** Corrigendum, OJ L 30, 5.2.1998, p. 46 (641/97)

NB: This consolidated version contains references to the European unit of account and/or the ecu, which from 1 January 1999 should be understood as references to the euro — Council Regulation (EEC) No 3308/80 (OJ L 345, 20.12.1980, p. 1) and Council Regulation (EC) No 1103/97 (OJ L 162, 19.6.1997, p. 1).

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COMMISSION REGULATION (EC) No 1249/96

of 28 June 1996

on rules of application (cereal sector import duties) for Council Regulation (EEC) No 1766/92

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals [1], as last amended by Regulation (EC) No 923/96 [2], and in particular Article 10 (4) thereof,

Whereas Article 10 of Regulation (EEC) No 1766/92 provides for the common customs tariff duties to be charged when the products listed in Article 1 thereof are imported; whereas however for the products listed in paragraph 2 of that Article the import duty is to be the intervention price valid at the time of importation increased by 55 % and then reduced by the cif import price applicable to the consignment;

Whereas for the purposes of grading imported lots the products covered by Article 10 (2) of Regulation (EEC) No 1766/92 are in certain cases to be classed in several standard qualities; whereas the standard qualities to be used should therefore be determined using objective grading criteria and tolerance rates should also be set allowing products to be given the most appropriate quality grading; whereas of the possible objective quality grading criteria for common wheat, protein content, specific weight and miscellaneous impurity (Schwarzbesatz) content are those most commonly used in the trade and also the easiest to use; whereas for durum wheat these criteria are specific weight, miscellaneous impurity (Schwarzbesatz) content and vitreous grain content; whereas imported goods are accordingly to be subjected to analysis to determine these parameters for each lot imported; whereas however where the Community has established an official recognition procedure for quality certificates issued by an authority of the country of origin of the goods these analyses need be effected merely by way of verification on a sufficiently representative number of imported lots;

Whereas Article 10 (3) of Regulation (EEC) No 1766/92 specifies that for the purposes of calculation of the import duty representative cif import prices are to be regularly established for each of the qualities defined for the products to which that paragraph refers; whereas for establishment of these prices the use must be stipulated of quotations for the several wheat qualities and for the other cereals; whereas the actual quotation sources to be used should be specified;

Whereas the use of quotations for the various wheat types and for other cereals on the commodity exchanges of the United States of America will provide a basis both transparent and objective for establishing representative cif import prices; whereas addition of the commercial premium assigned on the United States market to each quality of the various cereals will allow the exchange quotation for each cereal to be converted into a fob export price from the United States; whereas by addition of sea freight costs between the Gulf of Mexico or the Great Lakes and a Community port that are quoted on the freight markets these fob prices can be converted into representative cif import prices; whereas given the volume of freight passing through and amount of trade at the port of Rotterdam this is the Community destination for which sea freight quotations are most widely known, most transparent and most easily available; whereas the port of destination to be selected for the Community should therefore be Rotterdam;

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[1] OJ No L 181, 1. 7. 1992, p. 1.
[2] OJ No L 126, 24. 5. 1996, p. 37.

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Whereas, accordingly, for the sake of transparency the representative cif import prices of the cereals indicated at (a) in Article 10 (3) are to be established from commodity exchange quotations for the cereal in question plus the commercial premium assigned to the cereal and sea freight costs between the Gulf of Mexico or the Great Lakes and the port of Rotterdam; whereas however freight cost differences by port of destination justify flat rate adjustment of the import duty for Community ports located in the Mediterranean, on the Atlantic coast of the Iberian Peninsula and in the United Kingdom, Ireland and the Scandinavian countries; whereas the factors of calculation of the representative cif import prices so established should be monitored daily so that the trend of these prices can be followed; whereas, in the case of sorghum and rye, the representative cif import price calculated for barely allows the market situation for those two products to be estimated and consequently the representative cif import price determined for barley applies for these cereals;

Whereas for the purpose of setting the import duty on the cereals indicated in Article 10 (2) of Regulation (EEC) No 1766/92 a period of two weeks recording of the representative cif import prices for each cereal will reflect market trends without introducing uncertainty; whereas import duties for these products can therefore be determined on the fifteenth day and the last working day of each month using the average representative cif import price recorded over two weeks; whereas the import duty thus calculated can be applied for two weeks without any appreciable distorting effect on the duty paid import price; whereas however if no exchange quotation is available during the calculation period for the representative cif import prices or if as a result of sudden changes in their components they fluctuate very substantially during the period, action must be taken to maintain a properly representative price for the product in question; whereas in the case of absence of quotations the duty amount set for the previous period should continue to be applied and in the case of large fluctuations in either the exchange quotation, the commercial premiums attached to the quotation, the sea freight costs or the rate of exchange used to calculate the representative cif import price of the product the price used for calculation of the import duty should be kept representative by means of an adjustment corresponding to the deviation from it that these changes account for; whereas even where this type of adjustment is made the timing of the next determination need not be affected;

Whereas when imported cereals arrive in the Community overland, by river transport or by sea on vessels from ports in the Mediterranean, Black or Baltic Seas transport costs will be markedly lower than those used for calculation of import duties; whereas this difference should be taken into account, by a flat rate adjustment, in determination of the representative cif import prices for the products concerned;

Whereas in cases where, according to the Commission's information, certain quotations or prices are not representative of the real trend of the import market in the Community for medium or low quality common wheat owing to the granting by third countries of subsidies on exportation of these products to Mediterranean basin or European countries, it must be possible for the amount of the export subsidy granted to be deducted form the representative cif import price calculated for the product;

Whereas in the case of imports of very high quality common wheat, malting barley or flint maize the exchange quotation used for calculation of the representative cif import price may not, either because of the particular quality of the goods or because their price includes a quality premium over the normal price, take account of the existence of such a premium over normal market terms; whereas to take account of these quality premiums over prices or quotations importers who show that they have used the goods to make high quality products justifying the existence of such a premium should be reimbursed, at a flat rate, part of the import duty paid;

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Whereas in order to ensure that importers respect the provisions of this Regulation security should be required from them additional to that pertaining to licences;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Common Customs Tariff duty rates as indicated in Article 10 (1) and (2) of Regulation (EEC) No 1766/92 shall be those applicable on the date stipulated by Article 67 of Council Regulation (EC) No 2913/92 [1]

Article 2

1. The import duties indicated in Article 10 (2) of Regulation (EEC) No 1766/92 on products of CN codes 1001 10 00 to 1001 90 99 (except meslin), 1002 00, 1003 00 10, 1003 00 90, 1005 10 90, 1005 90 00 and 1007 00 90 shall be calculated daily but fixed on the fifteenth day and the last working day of each month by the Commission for application from the sixteenth day of the month and the first day of the following month. Where the fifteenth is not a Commission working day the duties shall be fixed on the working day preceding the fifteenth of the month in question. However if during the period of application of the duties thus fixed the average import duty calculated differs by ECU 5 per tonne or more from that fixed the corresponding adjustment shall be made.

2. The price to be used for calculation of the import duty shall be the average of the daily representative cif import prices determined as specified in Article 4 during the previous two weeks. The intervention price to be used for calculation of the duties shall be that of the month in which the import duty applies.

3. Import duties fixed as provided for in this Regulation shall be applicable until a new fixing comes into force.

If however for a particular product no quotation is available for the reference exchange as indicated at the first indent of Article 4 (1) during the two weeks preceding a fixing the import duty previously fixed shall remain in force.

On the occasion of each fixing or adjustment the Commission shall publish in the *Official Journal of the European Communities* the import duties and the data used for their calculation.

4. The Commission shall reduce the import duty by the following amounts on goods arriving via the Atlantic Ocean or the Suez Canal at the following ports of unloading:

— Mediterranean ports (beyond the Strait of Gibraltar): ECU 3 per tonne,

— Atlantic ports of the Iberian Peninsula, United Kingdom and Irish ports: ECU 2 per tonne,

— ports in Denmark, Finland and Sweden: ECU 2 per tonne.

The customs authority at the port of unloading shall issue a certificate attesting the quantity of each product unloaded. For the duty reduction to be granted this must accompany the goods until completion of the customs import formalities.

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5. Import duties shall be reduced by:

— ECU 14 per tonne on standard high quality common wheat,

— ECU 8 per tonne on malting barley,

[1] OJ No L 302, 19. 10. 1992, p. 1.

▼M4

— EUR 24 per tonne on flint maize meeting the specifications laid down in Annex I.

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For granting of the reduction the following requirements must be met:

(a) The applicant must enter in box 20 of the import licence the processed product to be made from the cereals;

(b) The importer must give a written undertaking along with the import licence application that all the cereals will be processed in line with box 20 of the licence within six months of the date of entry for free circulation. He shall specify the processing location by stating either:

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— a processing firm and Member State, or

▼M1

— a maximum of five processing plants.

Before the goods are consigned for processing a control copy T5 shall be made out in the office of customs clearance in accordance with Commission Regulation (EEC) No 2454/93 [1]. The information required under (a) above and the name and location of the processing plant shall be given in box 104 of the T5.

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(c) The importer must lodge with the competent authority a security of:

— EUR 14 per tonne for common wheat,

— EUR 24 per tonne for flint maize, and

— EUR 8 per tonne for barley.

If however the duty in force on the day of completion of the customs import formalities is less than EUR 14 per tonne for common wheat, EUR 24 for flint maize or EUR 8 per tonne for barley, the security shall be equal to the duty amount.

The security shall be released on production of proof of the specific final use warranting a quality premium on the price of the basic product referred to in point (a). That proof, possibly in the form of the T5 control copy, must demonstrate to the satisfaction of the competent authorities of the Member State of importation that all the quantities imported have been processed into the product referred to in point (a).

Processing shall be deemed to have occurred when, within the time limit laid down in point (b):

— in the case of common wheat, the product referred to in point (a) has been produced at either:

— one or more of the plants belonging to the firm in the Member State, or

— the plant or one of the plants referred to in point (b),

— the malting barley has undergone steeping; and

— the flint maize has been processed to produce a product of CN codes 1904 10 10, 1103 13 or 1104 23.

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Article 2a

1. In the case of imports of flint maize of CN code 1005 90 00 into the Community for which import licence applications were made between 1 July 1996 and the date of entry into force of this Regulation and on which a duty reduction of ECU 8 per tonne was granted, payment shall be made, at the request of the importer or his agent, of the difference between the import duty paid on the quantities actually imported and the amount due had a reduction of ECU 14 per tonne been applied.

(1) OJ No L 253, 11. 10. 1993, p. 1.

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2. On request by the party concerned the competent authority of the Member State that issued the import licence shall, in accordance with Article 880 of Regulation (EEC) No 2454/93, issue a certificate, taking the form shown in Annex III, specifying the quantity on which part repayment of the duty as referred to in paragraph 1 may be made.

3. Applications for repayment supported by the certificate referred to in paragraph 2 and the evidence of specific final use referred to in Article 2 (5) (c) must be presented within 30 days of the date of entry into force of this Regulation. They must be accompanied by the import licence, the certificate referred to in paragraph 2 and the declaration of entry for free circulation of the cereals in question.

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Article 3

The quality standards to be met on importation into the Community and the tolerances allowed shall be those shown in Annex I.

Article 4

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1. For common wheat of high, medium and low quality, durum wheat of high and medium quality, maize and other feed grains the components determining the representative cif imports prices indicated in Article 10(2) of Regulation (EEC) No 1766/92 shall be:

(a) the representative exchange quotation on the market of the United States of America;

(b) the known commercial premiums and discounts attached to this quotation on the United States market on the quotation day and in particular, in the case of durum wheat, attached to the meal quality;

(c) the sea freight costs between the United States (Gulf of Mexico or Duluth) and the port of Rotterdam for a vessel of at least 25 000 tonnes.

The Commission shall record each working day:

— component (a) from the exchanges and using the reference qualities shown in Annex II,

— components (b) and (c) from publicly available information. However, in the case of durum wheat of medium quality a discount of ECU 10 per tonne shall be withheld under (b).

2. The representative cif import prices for barley, maize and, in the case of common wheat and durum wheat, for each standard quality shall be the sum of components (a), (b) and (c) indicated by the Commission in accordance with the second subparagraph of paragraph 1.

However, the representative cif import prices for imports of barley, maize and, in the case of common wheat and durum wheat, each standard quality that are made:

— overland or by river,

— by sea on vessels arriving in the Community from ports located in the Mediterranean, Black Sea or Baltic Sea,

shall be reduced by ECU 10 per tonne. In this case the import duty reductions provided for in Article 2(4) shall not be applicable.

In cases where third countries grant subsidies on exports of standard medium or low quality common wheat to European or Mediterranean basin countries so that world market prices can be undercut the Commission may take account of these subsidies in establishing the representative cif price for importation into the Community.

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3. The representative cif import prices for rye and sorghum shall be those calculated for barley. For common wheat seed of CN code 1001 90 91, maize seed of CN code 1005 10 90 and barley seed of CN code 1003 00 10 they shall be those calculated for high quality common wheat, maize and barley respectively.

Article 5

Import licence applications for common wheat and durum wheat shall be valid only if the applicant:

— enters the quality to be imported in box 20 of the import licence,

— gives a written commitment to lodge with the relevant competent body on the date of acceptance of the declaration of release for free circulation a specific security additional to those required under Commission Regulation (EC) No 1162/95 ([1]), if the import duty on the quality shown in box 20 is not the highest duty for the product category in question. The amount of the security shall be the difference on the day of acceptance of the declaration of release for free circulation between the highest duty and that applicable to the quality shown, plus a supplement of ECU 5 per tonne.

Article 6

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1. Representative samples shall be taken of every consignment of durum wheat, common wheat of standard high or medium quality and flint maize by the customs office of entry for free circulation, the provisions of the Annex to Commission Directive 76/371/EEC ([2]) applying, for determination of:

— in the case of common wheat of standard high or medium quality, protein content, specific weight and impurity content (Schwarzbesatz) as defined in Council Regulation (EEC) No 2731/75 ([3]),

— in the case of durum wheat, specific weight, impurity content (Schwarzbesatz) and vitreous grain content,

— in the case of flint maize, flotation index, specific weight and vitreous grain content.

If however the Commission officially recognizes a quality certificate for common wheat, durum wheat or flint maize issued by the country of origin of the cereals samples shall be taken for verification of the certified quality only from a sufficiently representative number of consignments.

Certificates issued by the Argentine *Servicio Nacional de Sanidad y Calidad Agroalimentaria* (Senasa) shall be officially recognized by the Commission under an administrative cooperation procedure as specified in Articles 63 to 65 of Regulation (EEC) No 2454/93. When the analytical parameters entered on the quality certificate issued by Senasa show conformity with the flint maize quality standards given in Annex I samples shall be taken from at least 3 % of the cargoes arriving at each entry port during the marketing year. A blank specimen of the quality certificates to be issued by Senasa is given in Annex IV. Reproductions of the stamp and signatures authorized by the Argentine Government shall be published in the 'C' series of the *Official Journal of the European Communities*.

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The goods shall be classed in the standard quality for which all the requirements indicated in Annex I are met. However if the quality of durum wheat of code CN 1001 10 is lower than that specified in Annex I for durum wheat of medium quality, the import duty shall be that applicable on common wheat of low quality.

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2. The standard methods for the determinations referred to in paragraph 1 shall be those given in Commission Regulations (EEC) Nos 1908/84 ([1]) and 2731/75.

Flint maize is maize of the species *Zea mays indurata* the grains of which present a dominantly vitreous endosperm (hard or horny texture). They are generally orange or red. The upper part (opposite the germ), or crown, shows no fissure.

Vitreous grains of flint maize are defined as grains meeting two criteria:

— their crown shows no fissure,

— when cut lengthwise their endosperm shows a central mealy part completely surrounded by a horny part. The horny part must account for the dominant part of the total cut surface.

The vitreous grain percentage shall be established by counting in a representative sample of 100 grains the number meeting these criteria.

The reference method for determining the flotation index is given in Annex V.

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3. If the analysis results show the imported wheat to be of a lower standard quality than entered on the import licence the importer shall pay the difference between the import duty applicable to the product shown on the licence and that on the product actually imported. The security indicated in Article 5 shall then be released except for the ECU 5 per tonne supplement.

If the above difference is not paid within one month the security indicated in Article 5 shall be forfeit.

4. Representative samples of imported cereals taken by the competent authority of the Member State shall be retained for six months.

Article 7

The provisions of this Regulation shall apply to import licences issued before 1 July 1996 that are used after that date.

Article 8

This Regulation shall enter into force on 1 July 1996.

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

([1]) OJ No L 178, 5. 7. 1984, p. 22.

▼M3

ANNEX I

Classification of imported products

(on the basis of a moisture content of 12 % by weight or equivalent)

Product	Common wheat and spelt (1)excluding meslin			Durum wheat			Flint maize	Maize other than flint	Other grains
CN code	1001 90			1001 10			1005 90 00	1005 10 90 and 1005 90 00	1002, 1003 and 1007 00 90
Quality	High	Medium	Low	High	Medium	Low			
1. Minimum protein percentage	14,0	11,5	—	—	—	—	—	—	—
2. Minimum specific weight kg/hl	77,0	74,0	—	76,0		—	76,0	—	—
3. Maximum impurity percentage (Schwarzbesatz)	1,5	1,5	—	1,5		—	—	—	—
4. Minimum vitreous grain percentage	—	—	—	75,0		—	95,0	—	—
5. Maximum flotation index	—	—	—	—	—	—	25,0	—	—

(1) Including husked spelt.

Tolerances

Permitted tolerance	Common/durum wheat	Flint maize
Protein percentage	− 0,7	—
Specific weight	− 0,5	− 0,5
Impurity percentage	+ 0,5	—
Vitreous grain percentage	− 2,0	− 3,0
Flotation index	—	+ 1,0

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ANNEX II

Quotation exchanges and reference varieties

Product	Common wheat			Durum wheat	Maize	Other feed grains
Standard quality	High	Medium	Low			
Reference variety (type/grade) for exchange quotation	Hard Red Spring No 2	Hard Red Winter No 2	Soft Red Winter No 2	Hard Amber Durum No 2	Yellow Corn No 3	US Barley No 2
Quotation exchange	Minneapolis Grain Exchange	Kansas City Board of Trade	Chicago Board of Trade	Minneapolis Grain Exchange (1)	Chicago Board of Trade	Minneapolis Grain Exchange (1)

(1) Where no quotation is available that can be used to calculate a representative cif import price, fob quotations publicly available in the US will be used.

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ANNEX III

SPECIMEN BLANK CERTIFICATE FOR REPAYMENT OF DUTY UNDER ARTICLE 2A

Import licence No: .....

Holder (name, full address and Member State): .....

Issuing agency (name and address): .....

Rights assigned to (name, full address and Member State): .....

Quantity (in kilograms) for which repayment may be requested under Regulation (EC) No 1249/96: ....

(Date and signature)

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ANNEX IV

BLANK QUALITY CERTIFICATE FROM SENASA AUTHORIZED BY ARGENTINE GOVERNMENT (ARTICLE 6(1))

REPÚBLICA ARGENTINA

SECRETARÍA DE AGRICULTURA, GANADERÍA, PESCA Y ALIMENTACIÓN
SECRETARY OF AGRICULTURE, LIVESTOCK, FISHERIES AND FOOD

SERVICIO NACIONAL DE SANIDAD Y CALIDAD AGROALIMENTARIA (SENASA)
NATIONAL AGRIFOOD HEALTH AND QUALITY SERVICE

CERTIFICADO DE CALIDAD DE MAÍZ FLINT O PLATA CON DESTINO A LA UNIÓN EUROPEA

QUALITY CERTIFICATE OF FLINT MAIZE OR PLATA MAIZE TO EUROPEAN UNION

MAÍZ FLINT

Grano ..... Cosecha ..... Certificado No .....
Grain Crop Certificate

Exportador .....
Shipper or Seller

Embarcó en el Puerto de ..... el .....
Loaded at the Port of on

En el vapor ..... Bandera .....
Vessel Flag

Bodega ..... Con destino a .....
Hold Destination

Granel kg .....
In bulk

Peso total en kilogramos .....
Total weight

Embolsado kg .....
In bags

Calidad
(quality)
- Granos de Maíz Flint (%):
- Peso hectolítrico (kg/hl):
- Test de flotación (%):

Definición
(definition)

Maíz flint o maíz plata son los granos de la especie *Zea mays* que presentan endosperma predominantemente vítreo (textura dura o córnea) con escasa zona almidonosa, generalmente de color colorado y/o anaranjado, sin hendidura en la parte superior o corona.

OBSERVACIONES .....

REMARQUES .....

.....

Los datos de calidad (grado) se refieren a la mercadería en conjunto, y no necesariamente a los parciales que de él se extraigan.
The data quality (grade) refers to the grain as a whole, and not necessarily to the sublote obtained therefrom.

Cualquier raspadura, enmienda o agregado invalida este documento.
Any erasure, correction or addendum tenders this document null and void.

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ANNEX V

STANDARD METHOD FOR DETERMINING FLOTATION INDEX (ARTICLE 6(2))

Prepare an aqueous solution of sodium nitrate of specific weight 1,25 and conserve it at 35 °C.

Place in the solution 100 grains of maize from a representative sample of maximum moisture content 14,5 %.

Shake the solution at 30 second intervals for five minutes to eliminate air bubbles.

Separate the floating from the submerged grains and count them.

$$\text{Flotation index for trial} = \frac{\text{number of floating grains}}{\text{number of submerged grains}} \times 100$$

Repeat five times.

The flotation index is the arithmetic mean for the five trials excluding the two extreme values.