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 an 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 coverted 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;

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

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

claculated 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 apreciable 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 coresponding 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;

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.

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

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 indend 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.

5. Import duties shall be reduced at a flat rate of ECU 14 per tonne on standard high quality common wheat and ECU 8 per tonne on malting barley and flint maize provided the importer shows that a quality premium on the normal product price was paid.

The reduction is further conditional on:

(a) indication by the applicant in box 20 of the import licence of the product into which the cereals are to be processed;

(b) a written commitment by the importer, lodged along with the import licence application, that all the goods to be imported will be processed as specified in box 20 of the licence within six months of the date of acceptance of the entry for free circulation. The importer shall state the location at which processing is to be carried out:

— by giving the name of a processing firm and a Member State, or

— by giving the names of not more than five different processing plants.

If processing is carried out in a different Member State from that of importation, consignment of the goods shall give rise to completion in the Member State of departure of a T5 control copy in line with the provisions of Regulation (EEC) No 2454/93 [1], The statement indicated at (a) shall be entered in box 104 of the T5 document.

(c) the lodging by the importer with the relevant competent body of a security of ECU 14 per tonne in the case of common wheat and ECU 8 per tonne for other products. However, if the duty applicable to the products concerned on the date of completion of the customs import formalities is less than ECU 14 per tonne in the case of common wheat and ECU 8 per tonne in the case of maize and barley, the security shall equal to the amount of duty in question. The security shall be released on production of evidence of the specific final use warranting a quality premium over the normal price of the basic product referred to in (a). It must be shown to the satisfaction of the competent authorities of the Member State of importation that all the cereals imported have been precessed into the product specified in the declaration indicated at (a) in accordance with the commitment referred to in (b). If processing is carried out in a Member State other than that of importation evidence of processing shall be provided by means of the T5 control copy.

Processing shall be deemed to have occurred within the time limit indicated at (b):

[1] OJ No L 253, 11. 10. 1993, p. 1.

— in the case of common wheat, when the processed product indicated at (a) has been made,

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

— in the processing plant(s) indicated at (b),

— in the case of malting barley, when it has undergone steeping,

— in case of flint maize, when the maize has been processed into a product of CN code 1904 10 10 or 1103 13.

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

1. For Common wheat of high, medium and low quality, durum wheat, maize and other feed grains the components determining the representative cif import 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 know commercial premium attached to this quotation on the United States market on the quotation day;

(c) the sea freight cost 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.

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

However the representative cif import prices for imports of durum wheat, barley, maize and in the case of common 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 ports

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.

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

1. Representative samples shall be taken of every consignment of durum wheat and of common wheat of standard high or medium quality by the customs authority of the importing Member State, the provisions of the Annex to Commission Directive 76/371/EEC [2] applying, for determination of protein content, specific weight and impurity content (Schwarzbesatz) as definited in Council Regulation (EEC) No 2731/75 [3]. For durum wheat the competent authorities shall also determine the vitreous grain content. If however the Commission officially recognizes a quality certificate for common or durum wheat issued by the State of origin of the goods samples shall not be taken and analysis shall be carried out only in verirfication of the certified quality of a sufficiently representative number of imported lots.

[1] OJ No L 117, 24. 5. 1995, p. 2.
[2] OJ No L 102, 15. 4. 1976, p. 1.
[3] OJ No L 281, 1. 11. 1975, p. 22.

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 imported is lower than that specified in Annex I the import duty shall be that applicable on common wheat of low quality.

2. The standard methods for analysis as indicated in paragraph 1 above shall be those set out in Commission Regulations (EEC) No 1908/84 (1) and (EEC) No 2731/75.

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.

Done at Brussels, 28 June 1996.

For the Commission

Franz FISCHLER

Member of the Commission

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

ANNEX I

Classification of imported products

Product	Common wheat			Durum wheat	Maize	Other feed grains
CN Code	1001 90 99			1001 10	1005 90 00	1002, 1003 00 90, 1007 00 90
Quality	High	Medium	Low			
Quality requirements (for moisture content of 12 % by weight or equivalent)						
1. Minimum protein percentage	14,0	11,5	—	—	—	—
2. Minimum specific weight (kg/hl)	77,0	74,0	—	76,0	—	—
3. Maximum impurity percentage (Schwarzbesatz)	1,5	1,5	—	1,5	—	—
4. Minimum vitreous grain percentage	—	—	—	75,0	—	—

Permitted tolerances

	Common/durum wheat
Protein percentage	− 0,7
Minimum specific weight	− 0,5
Maximum impurity percentage	+ 0,5
Vitreous grain percentage	− 2,0

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.