COMMISSION REGULATION (EC) No 2228/96

of 21 November 1996

opening and providing for the administration of a tariff quota of 50 000 tonnes of durum wheat falling within CN code 1001 10 00

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT XXIV.6 negotiations [1], and in particular Article 1 thereof,

Whereas, within the framework of the World Trade Organization (WTO), the Community has undertaken to open a tariff quota at a zero rate of duty for 50 000 tonnes of durum wheat with a minimum vitreous kernel content of 73 % each marketing year and commencing on 1 January 1996; whereas the said quota is contained in the Community Schedule CXL forwarded to the WTO;

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

Whereas, in order to ensure the proper administration of the imports, a system of securities should be introduced; whereas in view of the likelihood of speculation inherent in the system because no duty is payable, access to such imports should be limited to those who lodge a security to import the wheat in question 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 the special provisions governing the organization of the imports and, in particular, those relating to notices inviting applications for import licences will be adopted in accordance with the procedure laid down in Article 23 of Council Regulation (EEC) No 1766/92 [2], as last amended by Commission Regulation (EC) No 923/96 [3];

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

1. A tariff quota for 50 000 tonnes of durum wheat falling within CN code 1001 10 00 with a minimum vitreous kernel content of 73 % is hereby opened for each marketing year. The maximum quantity which may be imported in the 1995/96 marketing year, however, shall be 25 000 tonnes. The import duty on the quota shall be zero. Import shall be subject to the presentation of an import licence issued 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.

3. The provisions of Commission Regulation (EC) No 1249/96 [5] shall not apply to import licences for durum wheat applied for under this Regulation, save as otherwise provided in this Regulation.

Article 2

1. An application for an import licence relating 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 500 tonnes and 5 000 tonnes of durum wheat;

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

(c) it is accompanied by:

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

— proof that a security of ECU 5 per tonne has been lodged with the competent authorities of the Member State concerned to guarantee the applicant's good faith,

— a written undertaking by the applicant to lodge a security with the customs authorities of the Member State concerned, at the time the declaration of release into free circulation is presented, guaranteeing that the wheat in question will be imported, equal to the duty provided for in Article 10 of Regulation (EEC) No 1766/92 applicable on the day the application is made,

— a written declaration by the applicant that he has made only one application. In the event that an applicant submits more than one import licence application for the same product, all his applications shall be rejected.

[1] OJ No L 146, 20. 6. 1996, p. 1.
[2] OJ No L 181, 1. 7. 1992, p. 21.
[3] OJ No L 126, 24. 5. 1996, p. 37.
[4] OJ No L 331, 2. 12. 1988, p. 1.
[5] OJ No L 161, 29. 6. 1996, p. 125.

All import licence applications for durum wheat of the quality referred to in Article 1 submitted between 1 January 1996 and the entry into force of this Regulation shall be considered as being submitted under this Regulation. To that end, Member States shall notify the Commission by telex, fax or telegram within two weeks of the entry into force of this Regulation of the quantities covered by import licence applications for durum wheat of the quality referred to in Article 1 received during the said period. Where import licences were issued during the abovementioned period, Member States shall forward details within the same period of the quantities for which it can be proven:

— by means of representative samples taken by the customs authorities in application of Article 6 of Commission Regulations (EC) No 1249/96 and (EC) No 1502/95 (1), or, if those samples are not available,

— by means of the purchase contract, or

— by means of a quality certificate,

that the quality of the wheat imported or to be imported complies with Article 1. In the case of import licences for durum wheat issued or used during the abovementioned period, the security referred to in Article 5 of Regulations (EC) No 1502/95 and (EC) No 1249/96 shall be released when the customs authorities of the importing Member State confirm that the vitreous grain content is at least 73 %.

On the basis of the quantities thus notified, the Commission shall apply, where appropriate, the provisions of the second subparagraph of Article 3 (3).

2. Any application not fulfilling any of the requirements set out in the notices inviting applications for import licences shall be rejected.

3. Notwithstanding Article 3 (5), applications may not be withdrawn.

Article 3

1. Import licence applications for durum wheat falling within CN code 1001 10 00 of the quality referred to in Article 1 shall be submitted to the competent authorities of any Member State within the period laid down in the relevant Commission Regulation.

2. Member States shall notify the Commission by telex, fax or telegram within two working days of the end of the period laid down for the submission of applications of:

— the number of acceptable applications submitted, even where that number is zero,

— the quantity of durum wheat for which licence applications have been submitted,

— the names and addresses of applicants.

3. Within three working days of the end of the notification period referred to in paragraph 2, the Commission shall notify Member States of whether or not licences may 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 wheat which may be imported during the period concerned, the Commission shall notify Member States by what percentage(s) they must reduce the quantities applied for when issuing licences.

If the total quantity of durum wheat covered by import licence applications submitted between 1 January 1996 and the entry into force of this Regulation and against which licences were issued during that period, notified in accordance with the second subparagraph of Article 2 (1), exceeds the quantities provided for in Article 1, the Commission shall apply a reduction coefficient to the quantity covered by each of those applications and licences. In the case of licences already issued, the resulting quantity shall be subject to the reduced duty referred to in Article 1 and the balance of the quantity for which the licence was issued to the import duty applicable on the day customs formalities are completed.

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

5. Import licences shall be issued as soon as possible after the notification by the Commission to Member States referred to in paragraph 3 and in any event within three working days.

Import licences for durum wheat shall be valid for a period of seven days.

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 durum 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,

— notwithstanding 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:

Trigo duro del código NC 1001 10 00, cuya calidad cumple con lo dispuesto en el Reglamento (CE) nº 2228/96

(1) OJ No L 147, 30. 6. 1995, p. 13.

Hård hvede, KN-kode 1001 10 00, af kvalitet som fastsat i forordning (EF) nr. 2228/96

Hartweizen des KN-Codes 1001 10 00 von einer Qualität gemäß den Bestimmungen der Verordnung (EG) Nr. 2228/96

Σκληρός σίτος του κωδικού ΣΟ 1001 10 00, ποιότητας σύμφωνης με τις διατάξεις του κανονισμού (ΕΚ) αριθ. 2228/96

Durum wheat CN code 1001 10 00, of which the quality conforms with the provisions of Regulation (EC) No 2228/96

Blé dur du code NC 1001 10 00, de qualité conforme aux dispositions du règlement (CE) n° 2228/96

Frumento duro, codice NC 1001 10 00, di qualità conforme a quanto prescritto dal regolamento (CE) n. 2228/96

Harde kwaliteitstarwe van GN-code 1001 10 00 die beantwoordt aan de bepalingen van Verordening (EG) nr. 2228/96

Trigo duro do código NC 1001 10 00, de qualidade conforme às disposições do Regulamento (CE) nº 2228/96

CN-koodiin 1001 10 00 kuuluva asetuksen (EY) N:o 2228/96 säännösten mukaista laatua oleva durumvehnä

Durumvete med KN-nummer 1001 10 00 av en kvalitet som uppfyller bestämmelserna i förordning (EG) nr 2228/96

— Section 24 shall contain one of the following indications:

Derecho cero. Contingente arancelario para el trigo del código NC 1001 10 00 abierto de acuerdo con el Reglamento (CE) nº 3093/95 del Consejo (1)

Nultold. Toldkontingent for hård hvede, KN-kode 1001 10 00, åbnet i henhold til Rådets forordning (EF) nr. 3093/95 (1)

Zollfrei. Mit der Verordnung (EG) Nr. 3093/95 des Rates (1) eröffnetes Zollkontingent für Hartweizen des KN-Codes 1001 10 00

Μηδενικός δασμός. Δασμολογική ποσόστωση σκληρού σίτου του κωδικού ΣΟ 1001 10 00 που έχει ανοιχθεί δυνάμει του κανονισμού (ΕΚ) αριθ. 3093/95 του Συμβουλίου (1)

Zero levy. Tariff quota for durum wheat falling with CN code 1001 10 00 opened under Council Regulation (EC) No 3093/95 (1)

Droit zéro. Contingent tarifaire blé dur du code NC 1001 10 00 ouvert par le règlement (CE) n° 3093/95 du Conseil (1)

Dazio zero. Contingente tariffario di frumento duro del codice NC 1001 10 00 aperto a norma del regolamento (CE) n. 3093/95 del Consiglio (1)

Nulrecht. Tariefcontingent voor harde tarwe van GN-code 1001 10 00 geopend bij Verordening (EG) nr. 3093/95 van de Raad (1)

Direito nulo. Contingente pautal do trigo duro, código NC 1001 10 00 aberto pelo Regulamento (CE) nº 3093/95 do Conselho (1)

Tulliton. Neuvoston asetuksella (EY) N:o 3093/95 (1) avattu CN-koodiin 1001 10 00 kuuluvan durumvehnän tariffikiintiö

Avgift 0. Tullkvot för durumvete med KN-nummer 1001 10 00 öppnad genom rådets förordning (EG) nr 3093/95 (1)

— notwithstanding Article 6 (1) of Commission Regulation (EC) No 1162/95 (2), the licence shall be valid from its date of issue, within the meaning of Article 21 (1) of Regulation (EEC) No 3719/88, until the end of the sixth day following issue,

— notwithstanding Regulation (EEC) No 3719/88, the rights pertaining to the licence shall not be transferable.

Article 5

1. The security to guarantee the applicant's good faith provided for in the second indent of Article 2 (1) (c) shall be released when the certificate is issued.

2. The import security provided for in the third indent of Article 2 (1) (c) shall be released when it is proven that the imported quantities fulfil the quality requirements laid down. If the quality requirements laid down are not fulfilled, the security shall be forfeit as import duty.

3. The proof referred to in paragraph 2 shall be provided by the body responsible for inspection in the importing Member State.

4. In order to check that the imported durum wheat is of the required quality, the customs authorities of the importing Member State shall take separate representative samples when the wheat is released for free circulation in the Community and keep them available to the Commission for at least six months.

5. The cost of inspection and sampling shall be borne by the holder of the import licence.

6. The reference methods for the checks referred to in paragraph 2 for the determination of the quality of the imported durum wheat shall be those laid down in Commission Regulation (EEC) No 1908/84 (3).

Article 6

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

(a) within two working days of the issue of import licences, of the quantities of durum wheat for which licences have been issued, together with the dates of issue, the countries of origin and provenance of the product and the names and addresses of the licence holders;

(1) OJ No L 334, 30. 12. 1995, p. 1.

(2) OJ No L 117, 24. 5. 1995, p. 2.
(3) OJ No L 178, 5. 7. 1984, p. 22.

(b) by the last working day of each month following the placing of the durum wheat in free circulation, of the information referred to in point (a) concerning the quantity of wheat placed in free circulation, broken down by country of origin.

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

Article 7

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities.*

It shall apply from 1 January 1996.

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

Done at Brussels, 21 November 1996.

For the Commission

Franz FISCHLER

Member of the Commission