COMMISSION REGULATION (EC) No 411/96

of 6 March 1996

on detailed rules of application as regards import licences for oats falling within CN code 1004 00 00

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3093/95 of 22 December 1995 laying down the rates of duty to be applied by the Community resulting from negotiations under GATT Article XXIV (6) consequent upon the accession of Austria, Finland and Sweden to the European Union [1], and in particular Article 5 thereof,

Whereas, pursuant to the provisions of the agreement concerning the conclusion of negotiations between the Community and Australia under Article XXIV (6) of the GATT, the Community has undertaken to establish for each marketing year with effect from 1 January 1996 a tariff quota at a duty of ECU 89 per tonne, for 21 000 tonnes of oats falling within CN code 1004 00 00, of a minimum specific weight of 55 kg/hl, of a maximum moisture content of 12 % and with a maximum grain impurities content of 2 %;

Whereas those imports are subject to the presentation of an import licence; whereas it is necessary to specify the conditions governing the issue of such licences;

Whereas the proper administration of the imports requires the introduction of a system of securities; whereas, given the likelihood of speculation inherent in the system as a result of the reduced duty, access to the imports in question should be restricted to operators who have lodged a security for the import of oats, who provide proof that they have conducted a commercial activity in the cereals sector for at least twelve months and who are registered in the Member State in which the application is submitted;

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. The import, per marketing year, of 21 000 tonnes of oats falling within CN code 1004 00 00, having a minimum specific weight of 55 kg/hl, a maximum moisture content of 12 % and a maximum content of grains of cereals other than oats of 2 %, eligible for an import duty of ECU 89 per tonne in accordance with the Council Regulation No 3093/95, shall be subject to the issue of an import licence in accordance with the provisions of this Regulation.

However, the quantity to be imported during the 1995/96 marketing year shall be 10 500 tonnes.

2. The provisions of Commission Regulation (EEC) No 3719/88 [2] shall apply, unless otherwise stated in this Regulation.

Article 2

1. Applications for import licences under the quantities mentioned in Article 1 (1) shall be admissible only if accompanied by:

— proof that the applicant is a physical or legal person who has conducted a commercial activity in the cereals sector for at least twelve months and who is registered in the Member State in which the application was submitted,

— proof that a security of ECU 5 per tonne has been lodged with the competent authority of the Member State concerned, intended to establish the good faith of the applicant,

— the written undertaking of the applicant to lodge with the customs authorities of the Member State concerned on the date of acceptance of the declaration for release for free circulation of a security relating to the performance of the import of an amount equal to that of the duty referred to in Article 10 of Council Regulation (EEC) No 1766/92 [3] applicable on the date of the application, less ECU 89.

2. Applications for import licences shall be lodged with the competent authorities of the Member States by 13.00 (Brussels time) on the second working Monday of each month.

However, applications for licences for the import of oats falling within CN code 1004 00 00 of a quality conforming to the provisions of Article 1 lodged between 1 January 1996 and the date of entry into force of this Regulation, shall be considered as having been lodged under the provisions of this Regulation. To that end, Member States shall notify the Commission by telex, telefax or telegram within 15 days of the entry into force of this Regulation of the quantities contained in the applications for licences for the import of oats of a quality conforming to the provisions of Article 1 during the abovementioned period. Where import licences were

[1] OJ No L 334, 30. 12. 1995, p. 1.

[2] OJ No L 331, 2. 12. 1988, p. 1.

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

issued in the abovementioned period, Member States shall notify within the same time limit the quantities in respect of which importers can prove by means of a purchase contract or a quality certificate that the quality imported or to be imported is in accordance with the provisions of Article 1. On the basis of quantities notified thus, the Commission shall, where necessary, apply the provisions provided for in the second subparagraph of paragraph 4.

Licence applications may not relate to a quantity exceeding the quantity available for the import of the product in question during the marketing year concerned.

3. Member States shall notify the Commission by telex, telefax or telegram by 18.00 (Brussels time) on the date of lodging at the latest, of the quantity information contained in the applications for import licences.

That information must be notified separately from information relating to other applications for import licences for cereals.

4. If applications for import licences exceed the quota quantities still available in each marketing year, the Commission shall set a single reduction coefficient for the quantities applied for by the third working day at the latest following the lodging of applications. Licence applications may be withdrawn within one working day following the date on which the coefficient of reduction is set.

In the event that the total number of applications for import licences lodged between 1 January 1996 and the date of entry into force of this Regulation and of the licences issued during that period and notified to the Commission in accordance with the second subparagraph of paragraph 2 exceeds the quantity provided for in the second subparagraph of Article 1 (1), the Commission shall apply a reduction coefficient to the quantities to which each of the applications and licences relate. In the case of licences already issued, the reduced duty referred to in Article 1 shall be applied to the resulting quantity and the import duty in force on the day on which customs formalities are completed shall be applied to the remaining balance up to the quantity in respect of which the licence was issued.

5. Without prejudice to paragraph 4, licences shall be issued on the fifth working day following the day on which the application was lodged.

6. By derogation from Article 21 (1) of Regulation (EEC) No 3719/88, the period of validity of the licence shall be calculated with effect from the date on which it was actually issued.

Article 3

By derogation from Article 6 (1) of Regulation (EC) No 1162/95 [1], import licences shall be valid with effect from the day of their issue until the end of the third month following that in which the licence was issued.

Article 4

1. By derogation from Article 8 (4) of Regulation (EEC) No 3719/88, the quantity released for free circulation may not exceed that indicated in sections 17 and 18 of the import licence. To that end, the figure '0', shall be entered in section 19 of the licence.

2. In the case of products to be imported under the customs duty provided for in Article 1, the licence application and the import licence shall contain:

— in section 8, the name of the country of origin of the product in question,

— in section 20, one of the following indications:

  — Reglamento (CE) nº 411/96
  — Forordning (EF) nr. 411/96
  — Verordnung (EG) Nr. 411/96
  — Κανονισμός (ΕΚ) αριθ. 411/96
  — Regulation (EC) No 411/96
  — Règlement (CE) nº 411/96
  — Regolamento (CE) n. 411/96
  — Verordening (EG) nr. 411/96
  — Regulamento (CE) nº 411/96
  — Asetus (EY) N:o 411/96
  — Förordning (EG) nr 411/96,

— in section 24, one of the following indications:

  — Derecho de 89 ecus/tonelada. Contingente arancelario de avena del código NC 1004 00 00
  — Told 89 ECU/ton, toldkontingent for havre henhørende under KN-kode 1004 00 00
  — Zollsatz 89 ECU/t. Zollkontingent für Hafer des KN-Codes 1004 00 00
  — Δασμός 89 Ecu/τόνο. Δασμολογική ποσόστωση βρώμης του κωδικού ΣΟ 1004 00 00
  — Duty rate ECU 89/t. Tariff quota for oats falling within CN code 1004 00 00
  — Taux de droit 89 écus/t. Contingent tarifaire d'avoine du code NC 1004 00 00
  — Aliquota del dazio: 89 ECU/t. Contingente tariffario di avena del codice NC 1004 00 00
  — Invoerrecht van 89 ecu per ton. Tariefcontingent voor haver van GN-code 1004 00 00
  — Taxa de direito 89 ECU/tonelada. Contingente pautal de aveia do código NC 1004 00 00
  — Tulli 89 ecua/t. CN-koodiin 1004 00 00 kuuluvan kauran kiintiö
  — Tullsats 89 ecu/ton. Tullkvot för havre som omfattas av KN-nummer 1004 00 00.

The licence shall carry the obligation to import from the country mentioned in section 8 of the import licence.

[1] OJ No L 117, 24. 5. 1995, p. 2.

Article 5

1. The security of good faith referred to in the second indent of Article 2 (1) shall be released on the issue of the licence.

2. The import security referred to in the third indent of Article 2 (1) shall be released once proof exists that the prescribed quality conditions are met for the quantities imported within the period of validity of the import licence.

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

4. The customs authority in the importing Member State shall take separately representative samples at the time of release for free circulation in the Community and shall keep them for at least six months at the Commission's expense.

5. The costs of controls and samples shall be borne by the holder of the import licence.

6. The reference methods for the check to determine the quality of the imported oats as referred to in paragraph 2 shall be those described in Regulation (EEC) No 1908/84 [1].

Article 6

This Regulation shall enter into force on the third 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, 6 March 1996.

For the Commission

Franz FISCHLER

Member of the Commission

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