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COMMISSION REGULATION (EC) No 441/96

of 11 March 1996

laying down certain detailed rules for the application of a tariff quota for potato starch imported from the Republic of Poland and repealing Regulation (EEC) No 1995/92

(OJ L 61, 12.3.1996, p. 4)

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COMMISSION REGULATION (EC) No 441/96

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laying down certain detailed rules for the application of a tariff quota for potato starch imported from the Republic of Poland and repealing Regulation (EEC) No 1995/92

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 1863/95 ([2]), and in particular Article 9 (2) thereof,

Having regard to Council Regulation (EC) No 2179/95 of 8 August 1995 providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements and amending Regulation (EC) No 3379/94 opening and administering certain Community tariff quotas in 1995 for certain agricultural products and for beer, to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations ([3]), and in particular Article 8 thereof,

Having regard to Council Regulation (EC) No 3066/95 of 22 December 1995 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations ([4]), and in particular Article 8 thereof,

Whereas the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part, provides for concessions covering certain agricultural products originating in that country; whereas those concessions involve reductions in the specific agricultural duties under tariff quotas and in the customs duties; whereas the Council made provision for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements for the period 1 July to 31 December 1995 in Regulation (EC) No 2179/95 and for the period 1 January to 30 June 1996 in Regulation (EC) No 3066/95; whereas the list of concessions applying to agricultural products originating in Poland is set out in Annex I to Regulation (EC) No 2179/95 and in Annex II to Regulation (EC) No 3066/95; whereas the concession covering potato starch involves an 80 % reduction in the import duty in respect of 7 500 tonnes per year;

Whereas the detailed rules of application should be adapted to take account of those autonomous and transitional concessions; whereas Commission Regulation (EEC) No 1995/92 of 15 July 1992 laying down detailed rules for the application, in respect of potato starch, of the import arrangements provided for in the Interim Agreement concluded between the European Economic Community and the European Coal and Steel Community, of the one part, and the Republic of Poland, of the other part ([5]), as last amended by Regulation (EC) No 1851/95 ([6]), should accordingly be replaced;

Whereas, with a view to sound administration of the abovementioned arrangements and in particular to ensuring that the quantity fixed is not exceeded, special rules governing the submission of applications and the

([1]) OJ No L 181, 1. 7. 1992, p. 21.
([2]) OJ No L 179, 29. 7. 1995, p. 1.
([3]) OJ No L 223, 20. 9. 1995, p. 29.
([4]) OJ No L 328, 30. 12. 1995, p. 31.
([5]) OJ No L 199, 18. 7. 1992, p. 14.
([6]) OJ No L 177, 28. 7. 1995, p. 47.

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issuing of licences must be laid down; whereas such detailed rules must supplement or derogate from the provisions of Commission Regulation (EC) No 3719/88 [1], as last amended by Regulation (EC) No 2137/95 [2];

Whereas provisions should be laid down for guaranteeing the origin of the product and for administering the arrangements by means of import licences; whereas, to that end, provision should be made for a derogation from Article 10 of Commission Regulation (EC) No 1162/95 of 23 May 1995 laying down special detailed rules for the application of the system of import and export licences for cereals and rice [3], as last amended by Regulation (EC) No 285/96 [4]; whereas the security for import licences under those arrangements should be set at ECU 30 per tonne;

Whereas special provisions must be laid down to ensure that the potato starch is actually used in the Community in order to prevent any deflection of trade which may be detrimental to the sound management of the market and of the Agreement in question; whereas, to that end, it should be specified that the starch is to be processed into products falling within other tariff headings including esterified and etherified starch; whereas, to that end, eligibility for the preferential rate of import duty should be conditional, in particular, on an undertaking by the importer to use the starch as planned and on the lodging of a security equal to the reduction in the import duty; whereas a reasonable period must be allowed for processing to permit close surveillance of the arrangements in question; whereas, were the product released for free circulation is dispatched to another Member State for processing, the T5 control copy compiled by the Member State of release for free circulation provides suitable proof of processing in accordance with the rules laid down in Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 [5], as last amended by Regulation (EC) No 1762/95 [6], establishing the Community Customs Code;

Whereas experience has shown that, although the security is lodged to ensure payment of a customs charge payable on import, some element of proportionality must be introduced as regards the release of that security, in particular in certain cases where the time limits laid down by the arrangements have not been observed; whereas the rules laid down in Title V of Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products [7], as last amended by Regulation (EC) No 3403/93 [8], should therefore be followed;

Whereas the reduction in the import duty must be conditional on presentation of proof of processing in the Community;

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

HAS ADOPTED THIS REGULATION:

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Article 1

Under the arrangements provided for in Article 3 of Regulation (EC) No 3066/95, 3 750 tonnes of products falling within CN code 1108 13 00 and originating in Poland may be imported into the Community during the period 1 July 1996 to 31 December 1996 in accordance with this Regulation. The rate of customs duty applicable to

(1) OJ No L 331, 2. 12. 1988, p. 1.
(2) OJ No L 214, 8. 9. 1995, p. 21.
(3) OJ No L 117, 24. 5. 1995, p. 2.
(4) OJ No L 37, 15. 2. 1996, p. 18.
(5) OJ No L 253, 11. 10. 1993, p. 1.
(6) OJ No L 171, 21. 7. 1995, p. 8.
(7) OJ No L 205, 3. 8. 1985, p. 5.
(8) OJ No L 310, 14. 12. 1993, p. 4.

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such imports shall be 20 % of the duty applicable to the most favoured nation.

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Article 2

1. Import licence applications shall be lodged with the competent authorities of any Member State by 1 p.m. (Brussels time) on the first working day of the week.

Licence applications must cover at least 50 tonnes and not more than 1 000 tonnes, in product weight.

2. By no later than 6 p.m. (Brussels time) on the day of submission, the Member States shall notify the Commission by telex or fax of quantities covered by import licence applications submitted.

Such notification must be made separately from that relating to other import licence applications relating to cereals.

3. By no later than the Friday following the submission of applications, the Commission shall decide what proportion of quantities covered by applications may be granted and shall notify the Member States thereof by telex.

4. Without prejudice to paragraph 3, licences shall be issued on the fifth working day following that of submission of the application. Notwithstanding Article 21 (1) of Regulation (EEC) No 3719/88, the term of validity of licences shall run from the day of their actual issue.

Article 3

Import licence applications and licences shall show:

(a) in box 8, the word 'Poland'. Licences shall carry with them an obligation to import from that country;

(b) in box 20, one of the following:

— Acuerdo Polonia, Reglamento (CE) nº 441/96 debe presentarse EUR.1

— Aftale Polen forordning (EF) nr. 441/96 EUR.1 skal forelægges

— Abkommen Polen — Verordnung (EG) Nr. 441/96 — EUR.1 ist vorzulegen

— Συμφωνία Πολωνίας, κανονισμός (ΕΚ) αριθ. 441/96, πρέπει να προσκομίζεται το EUR.1

— Agreement Poland Regulation (EC) No 441/96 EUR.1 to be presented

— Accord Pologne, règlement (CE) nº 441/96 EUR.1 à présenter

— Accordo Polonia, regolamento (CE) n. 441/96 EUR.1 deve essere presentato

— Overeenkomst met Polen — Verordening (EG) nr. 441/96 — EUR.1 over te leggen

— Acordo Polónia, Regulamento (CE) n.º 441/96 EUR.1 a apresentar

— Puolan kanssa tehty sopimus, asetus (EY) N:o 441/96 EUR.1 on esitettävä

— Avtalet med Polen förordning (EG) nr 441/96 EUR.1 skall uppvisas;

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(c) in box 24, one of the following:

— Derecho de aduana en el Arancel Aduanero Común reducido en un 80 % en aplicación del Reglamento (CE) nº 3066/95

— Told nedsat med 80 % FTT, jf. forordning (EF) nr. 3066/95

— Zollermäßigung um 80 % gemäß der Verordnung (EG) Nr. 3066/95

— Καθοριζόμενη, στο κοινό δασμολόγιο εισφορά μειωμένη κατά 80 % κατ' εφαρμογή του κανονισμού (ΕΚ) αριθ. 3066/95

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— Customs duty fixed by the Common Customs Tariff reduced by 80 % pursuant to Regulation (EC) No 3066/95

— Droit de douane fixé au tarif douanier commun réduit de 80 % en application du règlement (CE) nº 3066/95

— Riduzione del dazio dell'80 % a norma del regolamento (CE) n. 3066/95

— Het in het gemeenschappelijk douanetarief vastgesteld douanerecht is verlaagd met 80 % overeenkomstig Verordening (EG) nr. 3066/95

— Redução de 80 % do direito aduaneiro fixado na Pauta Aduaneira Comum em aplicação do Regulamento (CE) n.º 3066/95

— Yhteisessä tullitariffissa vahvistetun tullin alentaminen 80 prosentilla asetuksen (EY) N:o 3066/95 mukaan

— Nedsatt tull med 80 % enligt Gemensamma tulltaxan med tillämpning av förordning (EG) nr 3066/95.

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Article 4

1. The fourth indent of Article 5 (1) of Regulation (EEC) No 3719/88 shall not apply.

2. Notwithstanding Article 8 (4) of Regulation (EEC) No 3719/88, the quantity released for free circulation may not exceed that shown in boxes 17 and 18 of the import licence. To that end, the figure '0', shall be entered in box 19 of the licence.

3. Article 33 (5) of Regulation (EEC) No 3719/88 shall apply.

Article 5

Notwithstanding Article 10 (a) and (b) of Regulation (EC) No 1162/95, the security for import licences covered by this Regulation shall be:

(a) ECU 25 per tonne until the entry into force of this Regulation;

(b) ECU 30 per tonne from the entry into force of this Regulation.

Article 6

1. Eligibility for the reduced rate of duty shall be subject to:

(a) a written undertaking by the importer, given at the time of release for free circulation, to the effect that all the goods declared will be processed into products not covered by CN codes 1108 and 3505 within six months of the date of acceptance of the declaration of release for free circulation;

(b) lodging by the importer, at the time of release for free circulation, of a security equal to the difference between the reduced duty and the full import duty;

(c) presentation of an EUR 1 certificate, to be issued by the competent authorities in Poland; and

(d) presentation of an import licence.

2. On release for free circulation, importers shall state the place where processing is to be carried out. Where processing is to be carried out in another Member State, a T5 control copy shall be compiled in the Member State of departure on dispatch of the goods in accordance with the rules laid down in Regulation (EEC) No 2454/93.

Box 104 of the T5 control copy shall show the following:

— Reglamento (CE) nº 441/96 — Artículo 5 — (indicación del destino específico de la fécula importada)

— Artikel 5 i forordning (EF) nr. 441/96 (angivelse af den særlige anvendelse af stivelsen)

— Verordnung (EG) Nr. 441/96 — Artikel 5 (Angabe der besonderen Bestimmung der eingeführten Stärke)

— Άρθρο 5 του κανονισμού (ΕΚ) αριθ. 441/96 — (ένδειξη του ειδικού προορισμού του εισαγόμενου αμύλου)

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— Article 5 of Regulation (EC) No 441/96 (specific use to be made of the imported starch)

— Règlement (CE) nº 441/96 — article 5 — (indication de la destination particulière de la fécule importée)

— Articolo 5 del regolamento (CE) n. 441/96 (indicare la destinazione specifica della fecola importata)

— Verordening (EG) nr. 441/96 — artikel 5 (vermelding van de bijzondere bestemming van het ingevoerde zetmeel)

— Regulamento (CE) n.º 441/96 — artigo 5.º — (indicação do destino específico da fécula importada)

— Asetus (EY) N:o 441/96 — 5 artikla — (tuodun tärkkelyksen erityistä käyttötarkoitusta koskeva merkintä)

— Artikel 5 i förordning (EG) nr 441/96 (det särskilda användningsområdet för den importerade stärkelsen).

3. Except in cases of *force majeure*, the security provided for in paragraph 1 (b) shall be released once proof is furnished to the competent authorities of the Member State of release for free circulation that all the quantities of starch so released have been processed within the time limit laid down in paragraph 1 (a) and the type of product manufactured is specified.

Where processing is carried out in a Member State other than that of release for free circulation, proof of processing shall be furnished by means of the original of the T5 control copy as provided for in paragraph 2.

Where goods released for free circulation have not been processed within the time limit referred to above, the security to be released shall be reduced by:

— 15 % of this total amount, and

— 2 % of the amount remaining (after the 15 % has been deducted) for each day by which the time limit is exceeded.

That part of the security which is not released shall be forfeited as duty.

4. Proof of processing shall be furnished to the competent authorities within six months of the deadline for processing. However, where proof is established within six months but furnished within the following 12 months, the amount forfeited, less 15 % of the total security, shall be reimbursed.

Article 7

Regulation (EEC) No 1995/92 is hereby repealed.

Article 8

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 July 1995.

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

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ANNEX

(tonnes)

CN code	Description	From 1 July to 31 December 1996
1108 13 00	Potato starch	3 750