COMMISSION REGULATION (EC) No 704/97

of 18 April 1997

laying down detailed rules for the application of Council Regulation (EC) No 537/97 and providing for the partial reimbursement of import duties levied on 30 000 tonnes of barley for malting

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 537/97 of 18 March 1997 opening a Community tariff quota for barley for malting falling within CN code 1003 00 [1], and in particular Article 2 thereof,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals [2], as last amended by Commission Regulation (EC) No 923/96 [3], and in particular Article 10 (4) thereof,

Whereas the provisions governing the way imports of cereals into the Community are treated were laid down in Commission Regulation (EC) No 1249/96 of 28 June 1996 on rules of application (cereals sector import duties) for Council Regulation (EEC) No 1766/92 [4], as last amended by Regulation (EC) No 641/97 [5]; whereas Article 2 (5) of Regulation (EC) No 1249/96 provides, under certain conditions, for a flat-rate reduction in the import duty of ECU 8 per tonne in particular on barley for malting; whereas Article 2 (4) of that Regulation also provides for a flat-rate reduction in import duties of ECU 2 or ECU 3 per tonne, depending on the port of unloading in the Community;

Whereas, pursuant to Article 1 of Regulation (EC) No 537/97, a tariff quota has been opened for 30 000 tonnes of high-grade barley covered by CN code 1003 00 for the production of malt to be used in the manufacture of a type of beer aged in vats containing beechwood; whereas the rate of duty applicable to such imports is 50 % of the full rate of duty in force on the day of import; whereas the flat-rate reductions in the import duty provided for in Regulation (EC) No 1249/96 cannot be applied; whereas, as a consequence, the duties applied pursuant to Regulation (EC) No 1249/96 in respect of up to 30 000 tonnes of barley for malting covered by import licence applications submitted from 1 June to 31 December 1996 should be adjusted by reducing the rate of duty in force on the day of release for free circulation of the imported product by 50 %, the amount thereby obtained being increased by the flat-rate reductions in the import duty which may have been applied on release for free circulation;

Whereas the tariff quota opened by Regulation (EC) No 537/97 only covers the period 1 June to 31 December 1996; whereas notwithstanding Article 2 of that Regulation, no provisions applying retroactively can be laid down to guarantee the type of barley imported or to recognize documents guaranteeing that that type of barley has been imported;

Whereas the implementation of this international commitment should be ensured by providing for the possibility for operators who have imported barley of a particular quality for malting during the period concerned to qualify, on application, for the reduction in the import duty, less any flat-rate reductions; whereas the Member States must accordingly be authorized to reimburse duties levied in excess to operators who can prove that the import duties they paid were reduced by ECU 8 per tonne as laid down for barley of brewery quality for the production of malt from 1 June to 31 December 1996;

Whereas the Management Committee for Cereals has not given an opinion within the period set by its chaiman,

HAS ADOPTED THIS REGULATION:

Article 1

1. Pursuant to Article 1 of Regulation (EC) No 537/97, 50 % of the full import duty in force on quantities actually released for free circulation, less, on the one hand, ECU 8 per tonne and, on the other hand, an amount equal to that of any flat-rate reduction in the import duty applied, depending on the port of unloading in the Community, shall be reimbursed, on application by the importer or his authorized agent, on up to 30 000 tonnes of imports into the Community of barley covered by CN code 1003 00 which was released for free circulation from 1 June to 31 December 1996, which was intended for the production of malt (quota serial number 09.4061) to be used for the manufacture of beer aged in vats containing beechwood and which qualified for a flat-rate reduction of ECU 8 per tonne pursuant to Article 2 (5) of Regulation (EC) No 1249/96.

[1] OJ No L 83, 25. 3. 1997, p. 7.
[2] OJ No L 181, 1. 7. 1992, p. 21.
[3] OJ No L 126, 24. 5. 1996, p. 37.
[4] OJ No L 161, 29. 6. 1996, p. 125.
[5] OJ No L 98, 15. 4. 1997, p. 2.

2. Within 100 days of the date of application of this Regulation, the parties concerned shall lodge applications for certificates in accordance with the model set out in the Annex with the competent authorities of the Member State which issued the import licence, specifying the quantity which may be covered by the partial reimbursement of the duty as provided for in paragraph 1, in accordance with Article 880 of Commission Regulation (EEC) No 2454/93 (1).

Such applications must be accompanied by an extract of the import licence proving that that quantity has been released for free circulation and by proof of processing into malt as provided for in Article 2 (5) (c) of Regulation (EC) No 1249/96. An additional certificate issued by the relevant authorities proving that the plant where the malt concerned has been used for the production of beer had vats for ageing containing beechwood at the time processing took place must also be provided by the parties concerned.

3. Within five working days of expiry of the period laid down in the first subparagraph of in paragraph 2, Member States shall forward details of the quantities covered by applications for certificates submitted pursuant to that paragraph to the Commission by telex, fax or telegram.

4. On the basis of the information forwarded by Member States, where the total quantity for which applications for certificates have been lodged exceeds 30 000 tonnes, the Commission shall notify Member States, within three working days of expiry of the period referred to in paragraph 3, of the percentage reduction to be applied to quantitites for which applications for certificates have been lodged.

5. Within two working days of expiry of the period referred to in paragraph 4, the competent authorities of the Member State which issued the import licence shall issue a certificate in accordance with the model set out in the Annex, specifying the quantity which may be covered by partial reimbursement of the duty, in accordance with Article 880 of Regulation (EEC) No 2454/93.

6. Applications for reimbursement must be submitted by the parties concerned to the office where customs clearance took place within 30 days of expiry of the period referred to in paragraph 5. Applications for reimbursement must be accompanied by:

(a) the import licence or a certified copy thereof,

(b) the certificate referred to in paragraph 5, and

(c) the declaration of release for free circulation covering the imports concerned.

Article 2

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 the date of application of Regulation (EC) No 537/97.

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

Done at Brussels, 18 April 1997.

For the Commission

Franz FISCHLER

Member of the Commission

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

ANNEX

Model for certificate applications and for certificates for reimbursement of duty as referred to in Article 1 (2) and (5)

Import licence reference number: .....

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

Body issuing the extract (name and address): .....

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

Quantity for which reimbursement may be applied for pursuant to Regulation (EC) No 704/97 (quantity in kilograms): .....

.....

(Date and signature)