# COMMISSION REGULATION (EC) No 1638/1999

## of 26 July 1999

## laying down detailed rules for the application of Council Regulation (EC) No 1269/1999 and providing for the partial reimbursement of import duties levied on a quota 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 1269/1999 of 14 June 1999 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 organisation of the market in cereals [2], as last amended by Commission Regulation (EC) No 1523/1999 [3] and in particular Article 10(4) thereof,

(1) Whereas the provisions governing the way imports of cereals into the Community are treated are laid down in 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 [4] as last amended by Regulation (EC) No 2519/98 [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 EUR 8 per tonne on malting barley;

(2) Whereas; pursuant to Article 1 of Regulation (EC) No 1269/1999, a tariff quota has been opened for 1999 and 2000 for 50 000 tonnes of high-grade barley falling within 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, without the flat-rate reduction of EUR 8 per tonne in the import duty provided for in Regulation (EC) No 1249/96; whereas, as a consequence, the duties applied pursuant to Regulation (EC) No 1249/96 for up to 50 000 tonnes of malting barley covered by import licence applications submitted between 1 January 1999 and the date of entry into force of this Regulation, 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 EUR 8 per tonne to take account of the flat-rate reduction in the import duty which may have been applied on release for free circulation; whereas the import duty on quantities covered by import licence applications submitted between the date of entry into force of this Regulation and 31 December 1999, within the limit of the remaining balance of the annual quota of 50 000 tonnes, must be reduced by 50 %;

(3) Whereas the tariff quota opened by Regulation (EC) No 1269/1999 covers the periods 1 January to 31 December 1999 and 1 January to 31 December 2000; whereas notwithstanding Article 2 of that Regulation, no provisions applying retroactively can be laid down to guarantee the quality of barley already imported or to recognise documents guaranteeing that that quality of barley has been imported;

(4) Whereas the implementation of this international commitment should be ensured by providing that operators who have imported barley of a particular quality for malting during the period concerned may qualify, on application, for the reduction in the import duty, less any flat-rate reductions; whereas the Member States must accordingly be authorised to reimburse duties levied in excess to operators who can prove that the import duties they paid were reduced by EUR 8 per tonne as laid down for barley of brewery quality for the production of malt from l January 1999 to the date of entry into force of this Regulation; whereas, since the time limit laid down by Regulation (EC) No 1249/96 for processing barley into malt is six months from the date of release for free circulation and since 100 days is quite sufficient to manufacture the type of beer provided for under this quota, it is appropriate, in the interests of simplification, to maintain these time limits in the rules governing the quota;

(5) 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. Pursuant to Article 1 of Regulation (EC) No 1269/1999, 50 % of the import duty in force for each consignment concerned on the date of release for free circulation, less EUR 8 per tonne, shall be reimbursed on quantities of malting barley to be used for the manufacture of beer aged in vats containing beechwood which qualified for a flat-rate reduction

[1] OJ L 151, 18.6.1999, p. 1.
[2] OJ L 181, 1.7.1992, p. 21.
[3] OJ L 160, 26.6.1999, p. 18.
[4] OJ L 161, 29.6.1996, p. 125.
[5] OJ L 315, 25.11.1998, p. 7.

of EUR 8 per tonne under Article 2(5) of Regulation (EC) No 1249/96 and which were covered by import licence applications submitted between 1 January 1999 and the date of entry into force of this Regulation, up to a limit of 50 000 tonnes, on application by the importer or his authorised agent.

The duty shall be reimbursed provided that:

— the imported barley was malted within six months from the date of release for free circulation, and

— the resulting malt was used in the manufacture of beer aged in vats containing beechwood within no more than 100 days following the date on which the barley was processed into malt.

2. Within 15 working days of the date of entry into force of this Regulation, the parties concerned shall lodge applications for reduced duty on the quantities referred to in paragraph 1, in accordance with the model set out in Annex II, with the competent authority of the Member State that issued the import licence, specifying the quantity that may be covered by the partial reimbursement of the duty as provided for in paragraph 1.

Applications shall be accompanied by:

— the import licence or an extract thereof proving that that quantity has been released for free circulation,

— proof that the applicant has lodged a 'good faith' security of EUR 5 per tonne with the authority that issued the import licence and

— an application for a certificate for reimbursement of duty in accordance with the model set out in Annex I.

3. Within five working days of expiry of the period laid down in the first subparagraph of paragraph 2, Member States shall forward to the Commission, by telex, fax or telegram, details of the quantities covered by applications for certificates for reduced duty submitted between 1 January 1999 and the date of entry into force of this Regulation.

4. On the basis of the information forwarded by Member States, where the total quantity for which applications for reduced duty have been lodged for the period concerned exceeds 50 000 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 quantities for which applications for certificates have been lodged.

5. The competent authority of the Member State that issued the import licence shall issue a certificate in accordance with the model set out in Annex I, taking account of any percentage reduction as referred to in paragraph 4, specifying the quantity which may be covered by partial reimbursement of the duty.

Certificates shall be issued and 'good faith' securities as provided for in paragraph 2 shall be released only in respect of quantities for which the parties concerned provide:

— proof of processing into malt as provided for in Article 2(5)(c) of Regulation (EC) No 1249/96 and

— an additional certificate proving that the malt has been used to manufacture beer aged in vats containing beechwood within the deadline provided for in paragraph 1. Such certificates shall be issued:

  — by the relevant authority proving that the plant where the malt concerned has been used for the production of beer had vats for ageing containing beechwood, where the processing took place before this Regulation was published,

  — by the customs department responsible for checking that barley is malted, for quantities of barley covered by import licence applications submitted before this Regulation was published but not yet processed into beer at that date.

The 'good faith' security referred to in paragraph 2 covering quantities actually processed but for which no duty reduction is granted shall be released.

6. Applications for reimbursement must be submitted by the parties concerned to the customs office which recorded the import. 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*

1. Pursuant to Article 1 of Regulation (EC) No 1269/ 1999, the common customs tariff duty in force on the date of release for free circulation shall be reduced for each consignment concerned, on application by the importer or his authorised agent, by 50 % for quantities of barley falling within CN code 1003 00 intended for malting (quota serial number 09.4061), to be used for the manufacture of beer aged in vats containing beechwood and covered by import licence applications submitted during 2000 and between the date of entry into force of this Regulation and 31 December 1999. In such cases, the duty reduction of EUR 8 per tonne provided for in Article 2(5) of Regulation (EC) No 1249/96 shall not be applied.

However, for the period between the date of entry into force of this Regulation and 31 December 1999, the 50 % reduction shall be applied only for a quantity equal to the 50 000 tonne quota for 1999, minus the quantity covered by applications for duty reimbursement submitted for the period between 1 January 1999 and the date of entry into force of this Regulation, in accordance with Article 1. Where necessary, the duty reduction shall be granted only for applications covering the quantity thus calculated by chronological order of submission from the date of entry into force of this Regulation.

The duty reduction shall be granted provided that:

— the imported barley is malted within six months from the date of release for free circulation, and

— the resulting malt is used in the manufacture of beer aged in vats containing beechwood within no more than 100 days following the date on which the barley is processed into malt.

2. Section 24 of applications for import licences and of import licences drawn up in accordance with Article 2(5) of Regulation (EC) No 1249/96 shall contain one of the following:

— Derecho 50 % solicitado. Reglamento (CE) nº 1638/1999. Contingente arancelario nº 09.4061,

— Anmodning om 50 % toldsats. Forordning (EF) nr. 1638/1999. Toldkontingent nr. 09.4061,

— 50 %-Satz beantragt. Verordnung (EG) Nr. 1638/1999. Zollkontingent Nr. 09.4061,

— Ζητούμενος δασμός 50 %. Κανονισμός (ΕΚ) αριθ. 1638/1999. Δασμολογικές ποσοστώσεις υπ' αριθ. 09.4061,

— 50 % duty requested. Regulation (EC) No 1638/1999. Tariff quota No 09.4061,

— Droit 50 % demandé. Règlement (CE) nº 1638/1999. Contingent tarifaire nº 09.4061,

— Dazio 50 % richiesto. Regolamento (CE) n. 1638/1999. Contingente tariffario n. 09.4061,

— Gevraagd recht 50 %. Verordning (EG) nr. 1638/1999. Tariefcontingent nr. 09.4061,

— Direito 50 % pedido. Regulamento (CE) n.º 1638/1999. Contingente pautal n.º 09.4061,

— Pyydetty tullinalennus 50 %. Asetus (EY) N:o 1638/1999. Tariffikiintiö N:o 09.4061,

— Begärd tullsats 50 %. Förordning (EG) nr 1638/1999. Tullkvot nr 09.4061.

When the consignment concerned is released for free circulation, the customs office shall endorse the licence only if the imported barley meets the following quality criteria:

— specific weight: 60.5 kg/hl or more,

— damaged grains: 1 % or less,

— moisture content: 13/5 % or less,

— sound, fair and merchantable barley: 98 % or more,

as certified by:

— either a certificate of analysis carried out at the importer's request by the customs office of release for free circulation,

— or a quality certificate for the imported barley issued by a government authority of the country of origin and recognised by the Commission in accordance with Article 6 of Regulation (EC) No 1249/96.

3. The parties concerned shall lodge applications for reduced duty, in accordance with the model set out in Annex II, with the competent authorities of the Member State of release for free circulation before the end of the one-year period concerned. Such applications shall be accepted only if accompanied by:

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

— proof that the applicant has lodged a security of EUR 10 per tonne with the competent authority of the Member State of release for free circulation,

— a written undertaking by the applicant that all the imported goods will be processed, within six months from the date of acceptance of entry for free circulation, into malt for use in the manufacture of beer aged in vats containing beechwood within 100 days following the date on which the barley was processed into malt.

4. The provisions governing the dispatch of goods for processing into malt as referred to in Article 2(5) of Regulation (EC) No 1249/96 shall apply. In addition, the competent authority must check that the malt is used in the manufacture of beer aged in vats containing beechwood within 100 days.

*Article 3*

1. On the first working Monday of each month, up to and including 4 December 2000, Member States shall inform the Commission, by telex, fax or telegram, in accordance with the model set out in Annex III, of the quantities covered by applications for reduced duty lodged during the previous month in accordance with Article 2(3). Not later than 11 January 2001, Member States shall inform the Commission, by telex, fax or telegram of the quantities covered by applications for reduced duty lodged up to 31 December 2000.

2. On the basis of the information forwarded by Member States, where the total quantity for which applications for reduced duty have been lodged exceeds the quantity referred to in Article 2(1), the Commission shall notify Member States, within three working days of expiry of the period referred to in paragraph 1, of the period for lodging applications for reduced duty for which such applications can be accepted and, where necessary, of the quantity to which the 50 % duty reduction can be applied for applications lodged on the last day of that period.

3. The competent authority of the Member State where the application for reduced duty is lodged shall issue a certificate specifying the quantity which may be covered by partial reimbursement of the duty, in accordance with Article 880 of Commission Regulation (EEC) No 2454/9 [1]. Such certificates, drawn up in accordance with the model set out in Annex I, shall be issued only for applications that can be accepted within the limit provided for in paragraph 2 for which the party concerned provides the following proof:

— proof of processing into malt as provided for in Article 2(5)(c) of Regulation (EC) No 1249/96,

— the import licence referred to in Article 2(2), duly endorsed by the customs office of release for free circulation, and

— an additional certificate, issued by the customs department and drawn up in accordance with the model in Annex I, proving that the malt has been used to manufacture beer aged in vats containing beechwood within the deadlines provided for in Article 2(1).

4. Applications for partial reimbursement of the import duty must be submitted by the parties concerned to the customs office which recorded the import. Applications for reimbursement must be accompanied by:

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

(b) the certificate referred to in paragraph 3, and

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

The amount to be reimbursed per tonne shall be 50 % of the full rate of duty in force on the day of release for free circulation, minus EUR 8 per tome where the duty reduction provided for in Article 2(5) of Regulation (EC) No 1249/95 has been applied.

*Article 4*

The security of EUR 10 per tonne provided for in the second indent of Article 2(3) shall be released:

(a) for quantities covered by applications, actually processed but for which no duty reduction has been granted, and

(b) for the quantities accepted for each application for duty reduction, provided that:

— the quality of the barley, established on the basis of the quality certificate or analysis certificate, meets the criteria laid down in the second subparagraph of Article 2(2),

— the certificate applicant provides proof of the specific final use referred to in Article 2(4), certifying that this use took place within the deadline provided for in the written undertaking referred to in the third indent of Article 2(3).

*Article 5*

For the purposes of this Regulation:

(a) 'damaged grains' means grains of barley, other cereals or wild oat that display damage, including deterioration caused by disease, frost, heat, insects or fungus, bad weather and all other forms of material damage,

(b) 'sound, fair and merchantable barley' means barley grains or pieces of grains that are not damaged as defined in (a), except grains damaged by frost or fungus.

*Article 6*

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

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

Done at Brussels, 26 July 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

[1] OJ L 253, 11.10.1993, p. 1.

*ANNEX I*

**Model for certificate applications and certificates for reimbursement of duty as referred to in Articles 1(2) and (5) and 3(3) of Regulation (EC) No 1638/1999**

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 under Regulation (EC) No 1638/1999 (quantity in kilograms):

.....

(Date and signature)

*ANNEX II*

**Model for application for duty reduction as referred to in Articles 1(2) and 2(3) of Regulation (EC) No 1638/1999**

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 under Regulation (EC) No 1638/1999 (quantity in kilograms):

.....

(Date and signature)

*ANNEX III*

**Model for notification of applications for duty reduction as referred to in Articles 3(1) of Regulation (EC) No 1638/1999**

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 under Regulation (EC) No 1638/1999 (quantity in kilograms):

Date of application for reduced duty: (day, month, year):

.....

(Date and signature)