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COMMISSION REGULATION (EC) No 2235/2000

of 9 October 2000

amending Regulations (EC) No 1839/95 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal and (EC) No 1249/96 on rules of application (cereal sector import duties) for Council Regulation (EEC) No 1766/92

(OJ L 256, 10.10.2000, p. 13)

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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 organisation of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2], and in particular Article 10(4) and (12)(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 1839/95 of 26 July 1995 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal [3], as amended by Regulation (EC) No 1963/95 [4], lays down provisions on the administration of the imports concerned.

(2) The period laid down for the import of maize and sorghum into Spain under the tariff quota is the marketing year although experience shows that a different period based on the calendar year would be more suitable for taking account of imports of substitute products into Spain. As regards imports of maize into Portugal, imports of substitute products do not affect management of the quota. Consequently, the period laid down in Article 1(2) of Regulation (EC) No 1839/95 for those imports need not be amended.

(3) Since the quantity of maize and sorghum to be imported into Spain in a given year is reduced by the quantities of certain grain substitutes imported into Spain during that same year, at the end of the year it is impossible to determine the balance of maize and sorghum which remains to be imported in the year concerned. Consequently, the period during which imports of maize and sorghum into Spain may be booked against a year should be extended.

(4) Article 2(5) of Commission Regulation (EC) No 1249/96 [5], as last amended by Regulation (EC) No 2519/98 [6], provides for a reduction in the import duty on flint maize. That being the case, in order to resolve a number of anomalies created by the current arrangements for Community trade in that type of maize and to permit compliance with international commitments, it should be laid down that maize imported under those quotas may not be used for the production of maize meal for the manufacture of breakfast cereals. In view of the fact that maize with a vitreous grain content of more than 60 % is suitable for the production of breakfast cereals, means of checking those imports and their final use should be provided for. The most suitable forms of check are analysis of the imported goods and the monitoring until final use of products with a vitreous grain content of more than 55 %. In order to allow for differences in the results of analyses carried out on the maize on departure and on arrival at destination, a tolerance of 5 % in the vitreous grain content should be allowed.

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[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 177, 28.7.1995, p. 4.
[4] OJ L 189, 10.8.1995, p. 22.
[5] OJ L 161, 29.6.1996, p. 125.
[6] OJ L 315, 25.11.1998, p. 7.

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(5) Article 2(5) of Regulation (EC) No 1249/96 provides, on certain conditions, for a reduction in the import duty on flint maize of EUR 14 of per tonne. In view of the movement in the world market price of flint maize, the reduction in the duty provided for in Regulation (EC) No 1249/96 should be increased. The securities provided for in Regulation (EC) No 1249/96 should be adjusted accordingly.

(6) Given that a special reduction in the import duty is provided for under the quotas and that the reduction is sufficient to meet the Community's commitments under the WTO, the reduction in the import duty on flint maize provided for in Article 2(5) of Regulation (EC) No 1249/96 should not apply to imports under those quotas.

(7) The measures provided for in this Regulation should be adopted on a trial basis in order to solve problems currently being encountered in the management of the quotas provided for in Regulation (EC) No 1839/95. Without prejudice to further revisions and a more comprehensive reform of the system of quotas, the measures referred to in the above three recitals should be introduced for a trial period expiring one year from the date of entry into force of this Regulation.

(8) 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

Regulation (EC) No 1839/95 is amended as follows:

1. Article 1(1) is replaced by the following:

   '1. Quotas for imports from third countries, for free circulation in Spain, of a maximum quantity each year of 2 million tonnes of maize and 300 000 tonnes of sorghum shall be opened on 1 January of each year. Imports under those quotas shall be effected as provided for in the following Articles.'

2. The following paragraph 4 is added to Article 1:

   '4. The reduction in the import duty on flint maize provided for in Article 2(5) of Commission Regulation (EC) No 1249/96 (*) shall not apply under those quotas.

   (*) OJ L 161, 29.6.1996, p. 125.'

3. Article 2 is replaced by the following:

   'Article 2

   1. The quantities for import into Spain referred to in Article 1(1) shall be reduced in each year in proportion to any quantities of residues of starch manufacture from maize falling within CN codes 2303 10 19 and 2309 90 20, brewing and distilling dregs and waste falling within CN code 2303 30 00 and citrus pulp residues falling within CN code 2308 90 30 imported into Spain from third countries during the year concerned.

   2. The Commission shall book:

   — the quantities of maize and sorghum imported into Spain from third Countries during the year concerned and, where necessary, during January and February of the following year,

   — the quantities of residues of starch manufacture from maize, brewing and distilling dregs and waste and residues of citrus pulp imported into Spain each year.

   To that end, the Spanish authorities shall supply the Commission regularly with all necessary information.'

4. Article 6(1) is replaced by the following:

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‘1. A tendering procedure may be organised for the reduction in the import duty. In such cases, interested parties shall reply to the invitation to tender either by lodging a written tender in exchange for an acknowledgement of receipt with the competent body specified in the invitation to tender or by forwarding that tender to the latter by registered letter, telex, fax or telegram.’

5. The following paragraph 6 is added to Article 9:

‘6. The customs authorities of the Member State of importation shall take representative samples from each imported consignment in accordance with the Annex to Commission Directive 76/371/EEC (*), in order to determine the vitreous grain content using the method and criteria set out in Article 6(2) of Regulation (EC) No 1249/96.

(*) OJ L 102, 15.4.1976, p. 1.’

6. The first subparagraph of Article 12(3) is replaced by the following:

‘3. Without prejudice to the surveillance measures adopted pursuant to Article 13, the security referred to in Article 9(1) shall be released where the tenderer provides proof:

— for maize for which the analysis carried out in accordance with Article 9(6) shows a vitreous grain content of more than 60 %, that the imported product has been processed in the Member State of release for free circulation into any product other than those falling within CN codes 1904 10 10, 1103 13 or 1104 23. That proof shall be provided in the form of a T5 control copy drawn up by the customs clearance office, in accordance with Commission Regulation (EEC) No 2454/93 (*), before departure of the goods for processing,

— for maize for which the analysis carried out in accordance with Article 9(6) shows a vitreous grain content equal or lower than 60 % and for sorghum, that the imported product has been processed or used in the Member State of release for free circulation, that proof may be provided in the form of a sales invoice to a processor or consumer with headquarters in the Member State of release for free circulation, or

— that the product could not be imported, processed or used for reasons of *force majeure* or

— that the imported product has become unsuitable for any use whatsoever.

(*) OJ L 253, 11.10.1993, p. 1.’

Article 2

Regulation (EC) No 1249/96 is amended as follows:

1. The third indent of the first subparagraph of Article 2(5) is replaced by the following:

‘— EUR 24 per tonne on flint maize meeting the specifications laid down in Annex I.’

2. Point (c) of the second subparagraph of Article 2(5) is replaced by the following:

‘(c) the importer must lodge with the competent authority a security of:

— EUR 14 per tonne for common wheat,

— EUR 24 per tonne for flint maize, and

— EUR 8 per tonne for barley.

If however the duty in force on the day of completion of the customs import formalities is less than EUR 14 per tonne for common wheat, EUR 24 for flint maize or EUR 8 per tonne for barley, the security shall be equal to the duty amount.

The security shall be released on production of proof of the specific final use warranting a quality premium on the price of the basic product referred to in point (a). That proof, possibly in the form of the T5 control copy, must demonstrate to the

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satisfaction of the competent authorities of the Member State of importation that all the quantities imported have been processed into the product referred to in point (a).

Processing shall be deemed to have occurred when, within the time limit laid down in point (b):

— in the case of common wheat, the product referred to in point (a) has been produced at either:

  — one or more of the plants belonging to the firm in the Member State, or

  — the plant or one of the plants referred to in point (b),

— the malting barley has undergone steeping; and

— the flint maize has been processed to produce a product of CN codes 1904 10 10, 1103 13 or 1104 23.'

Article 3

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

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