COMMISSION REGULATION (EC) No 1677/2002

of 20 September 2002

laying down detailed rules for the application of Council Regulation (EC) No 1151/2002 as regards import licences for oats and barley originating in the Republic of Estonia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1151/2002 of 27 June 2002 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Estonia [1], and in particular Article 1(3) thereof,

Whereas:

(1) Regulation (EC) No 1151/2002 repealed Council Regulation (EC) No 1349/2000 of 19 June 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Estonia [2]. It thus rendered obsolete Commission Regulation (EC) No 1729/2000 which laid down detailed rules for the application of Regulation (EC) No 1349/2000. New detailed rules should therefore be laid down, incorporating provisions relating to imports of barley of brewery quality.

(2) The European Community has undertaken to establish, for each marketing year from 1 July 2002 on, an import tariff quota at zero duty of 4 800 tonnes of oats falling within CN code 1004 00 00 originating in Estonia, with an annual quota increase of 900 tonnes per marketing year with effect from 1 July 2003.

(3) That import is conditional upon presentation of an import licence. It is therefore necessary to specify the conditions governing the issue of such a licence.

(4) Provision should be made for the licences covering imports of oats, under the fixed quantities, to be issued after a period of reflection and subject, if necessary, to a single percentage reduction in the quantities requested.

(5) The information which must appear on the applications and licences should be laid down by derogation from Articles 8 and 21 of Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products [3], as last amended by Regulation (EC) No 2299/2001 [4].

(6) To take account of delivery conditions, the import licences should be made valid from the day on which they are issued up to the end of the month following that in which they are issued.

(7) To ensure efficient management of the quota, the import licences should not be transferable and the import licence security should be fixed at EUR 89 per tonne, by derogation from Article 10 of Commission Regulation (EC) No 1162/95 [5], as last amended by Regulation (EC) No 1322/2002 [6].

(8) Regulation (EC) No 1151/2002 also provided for the possibility of importing into the Community at zero duty an unlimited quantity of barley for the production of malt falling within CN code ex 1003 00 90.

(9) Special provisions must be laid down to ensure that barley of brewery quality is not diverted from the uses specified. To that end, the granting of the exemption must be made subject to an undertaking by importers to abide by the planned use of the product in question and the lodging of a security equal to the import duty. A reasonable processing time is required for the administration of the arrangements in question. Where the product released for free circulation is dispatched to another Member State for processing, the T5 control copy drawn up by the Member State of release for free circulation pursuant to Commission Regulation (EEC) No 2454/93 [7], as last amended by Regulation (EC) No 444/2002 [8], is the appropriate instrument for providing proof of processing.

(10) An element of proportionality must be introduced as regards the release of securities, in particular where the quantities to be processed and/or the time limits laid down by the arrangements have not been met. To this end, a tolerance should also be introduced as regards the quantity processed to take account of weighing losses and various other processing losses.

[1] OJ L 170, 29.6.2002, p. 15.
[2] OJ L 155, 28.6.2000, p. 1.
[3] OJ L 152, 24.6.2000, p. 1.
[4] OJ L 308, 27.11.2001, p. 19.
[5] OJ L 117, 24.5.1995, p. 2.
[6] OJ L 194, 23.7.2002, p. 22.
[7] OJ L 253, 11.10.1993, p. 1.
[8] OJ L 68, 12.3.2002, p. 11.

(11) 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

This Regulation lays down detailed rules for the application of the arrangements for the import of oats and of barley of brewery quality originating in Estonia, as provided for in the Europe Agreement with Estonia.

CHAPTER I

OATS

Article 2

1. The import of oats falling within CN code 1004 00 00 originating in Estonia and benefiting from zero import duty, in accordance with Regulation (EC) No 1151/2000 introducing a tariff quota for that product, shall be conditional upon the presentation of an import licence issued in accordance with this Chapter.

The quantity to be imported shall be 4 800 tonnes for the 2002/2003 marketing year. That quantity shall be increased by 900 tonnes per marketing year with effect from 1 July 2003.

The serial number of the quota is 09.4588.

2. When released into free circulation in the Community, the oats shall be accompanied by the original of the EUR.1 certificate issued by the competent authorities of Estonia.

Article 3

1. Applications for import licences shall be lodged with the competent authorities of the Member States no later than 13.00 Brussels time on the second Monday of each month.

Each licence application must be for a quantity which may not exceed the quantity available for the import of oats in the marketing year concerned.

2. No later than 18.00 Brussels time the same day, the competent authorities shall forward the total quantity resulting from the sum of all quantities indicated on the import licence applications to the Commission by fax to the number (32-2) 295 25 15.

That information must be notified separately from that relating to other applications for cereal import licences and must quote the number and title of this Regulation.

3. If the total of the quantities granted since the beginning of the marketing year plus the quantities requested on the day in question exceeds the quota quantity for the marketing year concerned, the Commission shall set, no later than the third working day following the lodging of the applications, a single reduction coefficient to be applied to the quantities requested on the day in question.

4. Without prejudice to paragraph 3, licences shall be issued on the fifth working day following the day on which the application was lodged.

5. In accordance with Article 23(2) of Regulation (EC) No 1291/2000, the period of validity of the licence shall be calculated from the actual date of its issue. By derogation from Article 6(1) of Regulation (EC) No 1162/95, import licences shall be valid until the end of the month following the month in which they were issued.

Article 4

By derogation from Article 9 of Regulation (EC) No 1291/2000, the rights resulting from the import licences shall not be transferable.

Article 5

By derogation from Article 8(4) of Regulation (EC) No 1291/2000, the quantity released into free circulation may not exceed that indicated in boxes 17 and 18 of the import licence. The figure '0' shall be entered to that effect in box 19 of the licence.

Article 6

The import licence application and the import licence shall contain the following information:

(a) in box 8, the name of the country of origin; under the terms of the licence, import from Estonia is compulsory;

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

— Reglamento (CE) nº 1677/2002

— Forordning (EF) nr. 1677/2002

— Verordnung (EG) Nr. 1677/2002

— Κανονισμός (ΕΚ) αριθ. 1677/2002

— Regulation (EC) No 1677/2002

— Règlement (CE) nº 1677/2002

— Regolamento (CE) n. 1677/2002

— Verordening (EG) nr. 1677/2002

— Regulamento (CE) n.º 1677/2002

— Asetus (EY) N:o 1677/2002

— Förordning (EG) nr 1677/2002;

(c) in box 24, 'zero duty'.

Article 7

By derogation from Article 10(a) and (b) of Regulation (EC) No 1162/95, the security for the import licences provided for in this Regulation shall be EUR 89 per tonne of oats.

CHAPTER II

BARLEY OF BREWERY QUALITY

Article 8

All imports of barley of brewery quality falling within CN code ex 1003 00 90 and originating in Estonia under Regulation (EC) No 1151/2002 shall be subject to the provisions of this Chapter.

Article 9

Box 20 of licence applications and licences shall contain the following:

— Cebada destinada a la fabricación de malta; Reglamento (CE) nº 1677/2002

— Byg til fremstilling af malt; forordning (EF) nr. 1677/2002

— Gerste zur Herstellung von Malz; Verordnung (EG) Nr. 1677/2002

— Κριθή προοριζόμενη για την παρασκευή βύνης· κανονισμός (ΕΚ) αριθ. 1677/2002

— Barley for malting; Regulation (EC) No 1677/2002

— Orge destinée à la fabrication de malt; règlement (CE) nº 1677/2002

— Orzo per la produzione di malto; regolamento (CE) n. 1677/2002

— Gerst voor verwerking tot mout; Verordening (EG) nr. 1677/2002

— Cevada para o fabrico de malte; Regulamento (CE) n.º 1677/2002

— Maltaan tuotantoon tarkoitettu ohra; asetus (EY) N:o 1677/2002

— Korn avsett för produktion av malt; förordning (EG) nr 1677/2002.

Article 10

1. Eligibility for the exemption from the duty referred to in Annex C to Regulation (EC) No 1151/2002 shall be conditional on:

(a) a written undertaking by the importer entered into at the time of release for free circulation, to the effect that all the goods declared will be processed in accordance with the second subparagraph of paragraph 3 of this Article within six months from the date of acceptance of the declaration of release for free circulation;

(b) the lodging by the importer, at the time of release for free circulation, of a security equal to the full import duty.

2. Importers shall indicate the place where processing is to be carried out. If the latter is to be carried out in another Member State, a T5 control copy shall be drawn up on dispatch of the goods in the Member State of departure in accordance with the rules laid down in Regulation (EEC) No 2454/93.

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

— Reglamento (CE) nº 1151/2002

— Forordning (EF) nr. 1151/2002

— Verordnung (EG) Nr. 1151/2002

— Κανονισμός (ΕΚ) αριθ. 1151/2002

— Regulation (EC) No 1151/2002

— Règlement (CE) nº 1151/2002

— Regolamento (CE) n. 1151/2002

— Verordening (EG) nr. 1151/2002

— Regulamento (CE) n.º 1151/2002

— Asetus (EY) N:o 1151/2002

— Förordning (EG) nr 1151/2002.

3. Except in cases of *force majeure*, the security provided for in paragraph 1(b) shall be released when proof is provided to the competent authorities of the Member State of release for free circulation to the effect that at least 95 % of the quantities released for free circulation have been processed into malt within the time limit laid down in paragraph 1(a).

Processing shall be deemed to have taken place when the barley has undergone soaking.

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

Where the quantities actually used for the manufacture of malt are less than 95 % of the total quantity released for free circulation, that part of the security corresponding to the difference between:

95 % of the total quantity released for free circulation and

the quantity actually processed

shall be forfeited.

4. Proof of processing shall be provided to the competent authorities within six months following the end of the processing time limit. However, if this proof is provided between the sixth and the 18th month following the end of the processing time limit, 85 % of the guarantee shall be reimbursed.

CHAPTER III

FINAL PROVISIONS

Article 11

Regulation (EC) No 1729/2000 is hereby repealed.

Article 12

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, 20 September 2002.

For the Commission
Franz FISCHLER
Member of the Commission