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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3033/80

of 11 November 1980

laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 28, 113 and 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas Regulation (EEC) No 1059/69 (3), as last amended by Regulation (EEC) No 152/78 (4), laid down the trade arrangements applicable to certain goods resulting from the processing of agricultural products; whereas that Regulation provides in particular that, on imports of such goods, a charge must be levied consisting of a fixed component for the protection of the processing industry and a variable component to offset any difference between the prices of the relevant agricultural products in the Community and on the world market;

Whereas Regulation (EEC) No 1059/69 has been amended several times; whereas, for reasons of clarity and in the light of experience, a new version of that Regulation should be published;

Whereas, in accordance with Article 3 (1) of Council Regulation (EEC) No 97/69 of 16 January 1969 on measures to be taken for uniform application of the nomenclature of the Common Customs Tariff (5), as amended by Regulation (EEC) No 280/77 (6), the provisions required for the application of the nomenclature of the Common Customs Tariff as regards classification of goods are adopted in accordance with the procedure laid down in paragraphs 2 and 3 of that Article; whereas methods of qualitative and quantitative analysis of goods and other technical provisions necessary for classifying goods to which the trade arrangements in question apply can therefore be adopted in accordance with that procedure;

Whereas, in accordance with Article 11 (1) of Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products (7), as last amended by Regulation (EEC) No 1761/78 (8), aid is granted for Community-produced skimmed milk processed into casein, if such milk and the casein produced from it satisfy certain conditions laid down in Article 1 of Regulation (EEC) No 987/68 (9); whereas, therefore, application of this Regulation to goods falling within subheadings 35.01 A and 35.01 C of the Common Customs Tariff should be deferred,

HAS ADOPTED THIS REGULATION:

TITLE I

General provisions

Article 1

1. This Regulation determines the trade arrangements applicable to certain goods not covered by Annex II to the Treaty:

(1) OJ No C 34, 11. 2. 1980, p. 117.
(2) OJ No C 83, 2. 4. 1980, p. 1.
(3) OJ No L 141, 12. 6. 1969, p. 1.
(4) OJ No L 23, 28. 1. 1978, p. 1.
(5) OJ No L 14, 21. 1. 1969, p. 1.
(6) OJ No L 40, 11. 2. 1977, p. 1.
(7) OJ No L 148, 28. 6. 1968, p. 13.
(8) OJ No L 204, 28. 7. 1978, p. 6.
(9) OJ No L 169, 18. 7. 1968, p. 6.

(a) in the manufacture of which one or more of the basic products listed in Article 2 have been used, either unprocessed or after processing; or

(b) which, in accordance with Article 3, are considered to be manufactured from products referred to under (a); or

(c) which are classified under the same heading or subheading of the Common Customs Tariff as the goods referred to under (a) or (b).

2. The goods referred to in paragraph 1 (hereinafter called 'goods') are listed in the Annex to this Regulation.

Article 2

The following shall be considered basic products:

CCT heading No	Description of the basic product
04.02	Milk and cream, preserved, concentrated or sweetened
04.03	Butter
Chapter 10	Cereals
17.01	Beet sugar and cane sugar, in solid form
17.03	Molasses

Article 3

For the purposes of this Regulation:

(a) goods made from potato starch (subheading 11.08 A IV), from the starches of roots and tubers falling within heading No 07.06 (subheading 11.08 A V) and from flour and meal falling within subheading 11.04 C of the Common Customs Tariff shall be considered to be manufactured from maize;

(b) goods made from fresh milk; not concentrated or sweetened, having a milkfat content not exceeding 0·1 %, shall be considered to be made from milk powder complying with the definition of the Group 2 pilot product contained in Annex I to Council Regulation (EEC) No 2915/79 of 18 December 1979 determining the groups of products and the special provisions for calculating levies on milk and milk products and amending Regulation (EEC) No 950/68 on the Common Customs Tariff (1);

(c) goods made from milk or cream, fresh, not concentrated or sweetened, having a milkfat content exceeding 0·1 % shall be considered to be made from milk powder complying with the definition of the Group 3 pilot product contained in Annex I to Regulation (EEC) No 2915/79;

(d) goods made from isoglucose (subheading 17.02 D I) shall be considered to be made from sugar.

Article 4

1. The Council, acting by a qualified majority on a proposal from the Commission, shall determine in respect of all goods:

(a) the type and characteristics of the basic products to be used for calculating the variable component referred to in Article 5,

(b) the quantity of each of these basic products considered to have been used in their manufacture,

account being taken of the Common Customs Tariff classification and any changes which may be made in accordance with the relevant rules in the Treaty.

2. Methods of qualitative and quantitative analysis of the goods, and other technical provisions necessary for identifying them or for determining their composition, shall be adopted in accordance with the procedure laid down in Article 3 (2) and (3) of Regulation (EEC) No 97/69.

TITLE II

System of trade

Article 5

1. On importation into the Community, all goods shall be subject to the relevant charge in the Common Customs Tariff consisting of:

(a) an *ad valorem* duty, which is the fixed component; and

(1) OJ No L 329, 24. 12. 1979, p. 1.

(b) a variable component.

The variable component shall be determined in accordance with Articles 6 and 7 and is intended to reflect, for the quantities of basic products considered to have been used in the manufacture of the goods, the difference between the prices of those products in the Community and the prices of imports of those products from third countries, when the total cost of those quantities of basic products is higher in the Community.

2. Subject to Article 14 (3) and (4), the levying of any customs duty or charge having equivalent effect other than the charge provided for in paragraph 1 shall be prohibited.

Article 6

1 The Commission shall fix the amount of the variable component for all goods for three-monthly periods beginning on 1 February, 1 May, 1 August and 1 November.

2. The variable component shall be calculated on the basis of the difference, for the quantity of each basic product to be taken into consideration, between:

(a) the average threshold price for each of the three months of the three-monthly period for which the variable component is fixed; and

(b) the average cif price (excluding special cif prices) or the free-at-frontier price used when fixing the levies on each of the basic products in question, calculated for a period consisting of the first 10 days of the month preceding the three-monthly period for which the variable component is fixed and the two months immediately preceding.

3. When, pursuant to the Regulations on the common organization of markets, a production refund or aid is applicable in all Member States to basic products or assimilated products within the meaning of Article 3, the amount of the variable component shall be calculated on the basis of the price resulting from the application of these measures instead of on the basis of the average threshold price referred to in paragraph 2 (a).

The Council, acting by a qualified majority on a proposal from the Commission, shall determine which goods are subject to the provisions of the preceding subparagraph.

4. The amount of the variable component applicable to goods obtained by processing several basic products shall be the total incidence of the price differences recorded for each of the basic products in accordance with the rules laid down in paragraphs 2 and 3.

5. The variable component shall be fixed at zero when the amount thereof is less than 1·5 ECU per 100 kilograms of goods.

Article 7

1. If one of the factors to be used for calculating the variable component has not been determined by the 10th of the month preceding the three-monthly period for which this variable component must be fixed, the Commission shall calculate the variable component on the basis of the factor used for calculating the variable component for the current three-monthly period instead of the factor which is not available.

2. When the factor which was not available is determined, the Commission, may fix corrected variable components if, by reason of the application of paragraph 1, trade is seriously disturbed or is in danger of being seriously disturbed.

Article 8

1. Where the Common Customs Tariff lays down a maximum rate of duty, the charge provided for in Article 5 may not exceed this maximum.

Where the maximum rate of duty referred to in the preceding subparagraph may be charged only under specific conditions, these conditions shall be determined in accordance with the procedure laid down in Article 3 (2) and (3) of Regulation (EEC) No 97/69.

2. Where the maximum rate of duty referred to in paragraph 1 includes an additional duty on various kinds of sugar, expressed as sucrose (adf), or on flour (adf); such additional duty shall be calculated on the basis of:

(a) the difference, calculated in accordance with the same rules as those laid down in Articles 6 and 7, between the average threshold price and the average cif price (excluding special cif prices) for the white sugar or cereal flour to be used, pursuant to Article 4 (1) (a), for calculating the variable component applicable to the goods in question;

(b) the quantity of white sugar or the quantity of flour corresponding to the quantity of the cereals referred to in (a), fixed pursuant to Article 4 (1) (b), for calculating the variable component applicable to the goods in question.

3. However, at the request of the person concerned and by way of derogation from paragraph 2 (b), the additional duty shall be calculated on the basis of the quantity of sugar (expressed as sucrose) actually contained in the imported goods or the quantity of flour corresponding to the content by weight of starch in the imported goods. To that end, the person concerned shall declare these quantities to the competent authorities.

4. Each three-monthly period, the Commission shall determine:

(a) the amount of the additional duties, calculated in accordance with paragraph 2;

(b) the price differences referred to in paragraph 2 (a).

5. For the purposes of paragraphs 2, 3 and 4, 100 kg of flour shall be considered to be equivalent to 63·6 kg of starch or 140 kg of cereals.

Article 9

1. The amount of the refund on agricultural products covered by the Regulations on the common organization of markets, and exported in the form of goods, shall be fixed in accordance with those Regulations.

2. The quantity of agricultural products covered by the Regulations on the common organization of markets which Member States do not make subject to levies or charges having an effect equivalent to customs duties, for the purpose of or as a result of exporting such goods, shall be determined in accordance with those Regulations.

3. The quantity of goods which Member States admit under inward processing and therefore do not make subject to the charge provided for in Article 5, for the purpose of or as a result of exporting other goods, shall be that actually used in the manufacture of the latter.

Article 10

Where pursuant to a Regulation on the common organization of a particular market, levies, charges or other measures are applied to exports of a basic product, the Commission may decide to apply appropriate measures with regard to certain goods the exportation of which, because of their high content of that basic product and the uses to which they may be put, is likely to hinder the achievement of the aims in the agricultural sector in question.

The Commission shall adopt such measures after consulting the Member States and taking due account of the specific interests of the processing industries.

The measures adopted by the Commission shall be communicated without delay to the Council. The Council, acting by a qualified majority, may take a different decision within one month of the date of such communication.

TITLE III

Final provisions

Article 11

Member States shall communicate to the Commission the information necessary for implementing this Regulation as regards importation, exportation and the production of goods. The procedure for the communication of this information shall be fixed by the Commission after consulting the Member States.

Article 12

The Council, acting unanimously on a proposal from the Commission, may adopt special provisions governing trade in goods between Member States and certain States, countries and territories, under a special system.

Article 13

The Commission may, after consulting the Committee on Common Customs Tariff Nomenclature, adjust the description of the goods and the references to the Common Customs Tariff headings and subheadings in this Regulation, if such adjustments are due to:

— amendments in the Nomenclature of the Customs Cooperation Council, or

— a legal act of the Council.

Article 14

1. The Council, acting by a qualified majority on a proposal from the Commission, may take measures in respect of any goods to bring the provisions of this Regulation into line with any technical amendments which may be made to the relevant Regulations on agricultural products.

2. Where, during any three-monthly period, a threshold price is altered or a production refund or aid is introduced, amended or abolished, the Council, acting by a qualified majority on a proposal from the Commission, may decide whether to correct the variable component and shall adopt the measures necessary to that end.

3. The Council, acting by a qualified majority on a proposal from the Commission, may take appropriate measures to deal with the possible effect on trade between Member States and with third countries of special measures which may be adopted under the common organization of agricultural markets as regards the prices of certain basic products.

4. The Council, acting unanimously on a proposal from the Commission, may take appropriate measures to deal with a special situation which may arise in respect of certain goods.

The period of validity of these provisions shall not, however, exceed six months.

Article 15

1. Regulation (EEC) No 1059/69 is hereby repealed with effect from 1 January 1981.

2. References in Community instruments to Regulation (EEC) No 1059/69 or to any Articles thereof shall be construed as references to this Regulation or to the corresponding Articles thereof.

Article 16

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

2. The arrangements laid down by this Regulation shall apply with effect from 1 January 1981. However, their application to caseins falling within subheading 35.01 A of the Common Customs Tariff and to caseinates and other casein derivatives falling within subheading 35.01 C of the Common Customs Tariff shall be deferred until further decision of the Council.

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

Done at Brussels, 11 November 1980.

For the Council

The President

C. NEY

ANNEX

CCT heading No	Description
ex 17.04	Sugar confectionery, not containing cocoa, except liquorice extracts containing more than 10 % by weight of sucrose but not containing other added substances
18.06	Chocolate and other food preparations containing cocoa
19.02	Malt extract; preparations of flour, meal, starch or malt extract, of a kind used as infant food or for dietetic or culinary purposes; containing less than 50 % by weight of cocoa
19.03	Macaroni, spaghetti and similar products
19.04	Tapioca and sago; tapioca and sago substitutes obtained from potato or other starches
19.05	Prepared foods obtained by the swelling or roasting of cereals or cereal products (puffed rice, corn flakes and similar products)
19.07	Bread, ships' biscuits and other ordinary bakers' wares not containing added sugar, honey, eggs, fats, cheese or fruit; communion wafers, cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products
19.08	Pastry, biscuits, cakes and other fine bakers' wares, whether or not containing cocoa in any proportion
ex 21.02	Roasted coffee substitutes, and extracts, essences and concentrates thereof other than roasted chicory and extracts, essences and concentrates thereof
ex 21.06	Bakers' yeast
ex 21.07	Food preparations not elsewhere specified or included containing sugar, milk products, cereals or products based on cereals
ex 22.02	Lemonade, flavoured spa waters and flavoured aerated waters, and other non-alcoholic beverages, not including fruit and vegetable juices falling within heading No 20.07 — Containing milk or milkfats
ex 29.04	D-mannitol (mannitol), D-glucitol (sorbitol)
ex 35.01	Casein, caseinates and other casein derivatives
35.05	Dextrins and dextrin glues; soluble or roasted starches, starch glues
ex 38.12	Prepared glazings and prepared dressings with a basis of amylaceous substances
38.19 T	D-glucitol (sorbitol) other than that falling within subheading 29.04 C III