COMMISSION REGULATION (EC) No 778/1999

of 15 April 1999

opening and providing for the administration of tariff quotas for 300 000 tonnes of quality wheat and 50 000 tonnes of durum wheat and repealing Regulations (EC) No 529/97 and (EC) No 2228/96

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in schedule CXL drawn up in the wake of the conclusion of the GATT XXIV.6 negotiations [1], and in particular Article 1 thereof,

Whereas the Community, as part of its World Trade Organisation (WTO) commitments, undertook to establish for each calendar year a zero-duty tariff quota for 300 000 tonnes of quality wheat falling within CN codes 1001 10 00 and 1001 90 99 and, for each marketing year, a zero-duty tariff quota for 50 000 tonnes of durum wheat with a minimum vitreous kernel content of 73 %; whereas imports under those quotas are governed by Commission Regulations (EC) No 529/97 [2], amended by Regulation (EC) No 850/97 [3], and (EC) No 2228/96 [4], amended by Regulation (EC) No 2410/98 [5], respectively; whereas those Regulations have failed to prevent speculation; whereas they should therefore be repealed;

Whereas speculation can be prevented by requiring that the cereals be available for import at the time applications are submitted; whereas this requirement must be applied so as not to prevent the Community from meeting its international commitments;

Whereas an import licence must be presented for these imports; whereas, in order to prevent discrimination between importers, import licences must be issued to applicants for licences after a date fixed in advance by the Commission; whereas, in view of the quality of wheat required for these quotas, applicants for import licences must be able to prove that the goods they hold are of adequate quality to qualify for a licence and that they are in a position actually to carry out the import operation during the period laid down for that purpose by the Commission; whereas, to enable the goods to be imported to be transported, that period has been set at 45 days; whereas, therefore, the conditions for granting such licences should be laid down;

Whereas, in order to ensure the proper administration of the imports, a system of securities should be introduced; whereas, given the likelihood of speculation inherent in the system because no duty is payable, access to the quotas in question should be restricted to those who lodge an import security, who provide proof that they have been operating commercially in the cereals sector for at least twelve months and who are registered in the Member State where the application is made;

Whereas in order to prevent speculation, import licences should be valid for no more than seven days;

Whereas the special provisions on organisation of the imports and, in particular, on the notices opening periods during which application may be made for import licences are to be adopted in accordance with the procedure laid down in Article 23 of Council Regulation (EEC) No 1766/92 [6], as last amended by Commission Regulation (EC) No 923/96 [7];

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. The importation each calendar year at zero duty of 300 000 tonnes of durum wheat falling within CN code 1001 10 00 and common wheat falling within CN code 1001 90 99, of a minimum quality satisfying the criteria laid down in Annex I, shall be subject to an import licence issued in accordance with this Regulation.

2. The importation each marketing year at zero duty of 50 000 tonnes of durum wheat falling within CN code 1001 10 00 with a minimum vitreous kernel content of 73 % shall be subject to an import licence issued in accordance with this Regulation.

[1] OJ L 146, 20.6.1996, p. 1.
[2] OJ L 82, 22.3.1997, p. 44.
[3] OJ L 122, 14.5.1997, p. 10.
[4] OJ L 298, 22.11.1996, p. 8.
[5] OJ L 298, 7.11.1998, p. 45.
[6] OJ L 181, 1.7.1992, p. 21.
[7] OJ L 126, 24.5.1996, p. 37.

3. In order to ensure the quality of the imported product, eligibility for the zero import duty shall be conditional on importers lodging with the competent authorities, on the day the declaration of release for free circulation is accepted, an import security equal to the import duty on low-quality common wheat, plus EUR 5 per tonne.

4. Commission Regulation (EC) No 1249/96 [1] shall not apply to import licences applied for under this Regulation, save as otherwise provided herein.

5. The periods during which application may be made for import licences shall be opened by the Commission in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92.

Article 2

1. Licence applications shall relate to a single product under a single quota.

2. Applications for import licences under the quotas referred to in Article 1 shall be admissible provided they comply with the following conditions:

(a) they relate to a quantity of wheat of between 500 tonnes and 10 000 tonnes;

(b) where applications are submitted by an agent, they contain the name and address of the principal;

(c) they are accompanied by:

— proof that the applicant is a natural or legal person who has been operating commercially in the cereals sector for at least twelve months and is registered in the Member State where the application is made,

— proof, in the form of the original of the document issued only once by the customs authorities of the place of release for free circulation, that the goods to which the import licence application relates are held by the applicant in the Community and are ready for importation during the period fixed in advance by the Commission,

— proof that the quality of the goods held meets the criteria laid down in this Regulation, in the form of an analysis certificate drawn up by a surveillance company demonstrating that the wheat concerned is of adequate quality or a quality certificate recognised by the Commission in accordance with Article 6 of Regulation (EC) No 1249/96.

3. Where one or more of the terms of an application differ from those provided for in the notice inviting applications for import licences, such application shall be inadmissible.

4. Applications may not be withdrawn.

Article 3

1. Member States shall notify the Commission by telex, fax or telegram within two working days of the end of the period laid down for submitting applications, which itself shall be at least 45 days, using the model in Annex II:

— of the number of admissible applications submitted by product and by quota

and

— of the quantity of wheat for which licence applications have been submitted.

This information shall be forwarded even where no application has been submitted.

2. In the event that the total quantity applied for exceeds the quantity of one or other type of wheat available or the import quota for the period concerned, the Commission shall notify the Member States within three working days of the end of the notification period referred to in paragraph 1 by what percentage(s) they must scale down the quantities applied for when issuing licences.

3. Import licences shall be issued as soon as possible after expiry of the period referred to in paragraph 2, and in any event within three working days.

4. Notwithstanding Article 10 of Commission Regulation (EC) No 1162/95 [2], the security for import licences shall be EUR 10 per tonne.

5. Notwithstanding Article 6(1) of Regulation (EC) No 1162/95, import licences shall be valid for no more than seven days. Validity shall start on the day licences are issued.

Article 4

Import licences shall contain the following entries and be subject to the following conditions:

(a) boxes 7 and 8 shall indicate, respectively, the country of provenance and the country of origin of the wheat concerned;

(b) notwithstanding Article 8(4) of Commission Regulation (EEC) No 3719/88 [3], the quantity placed in free circulation at zero duty shall not exceed that stated in boxes 17 and 18, and the figure 0 shall accordingly be entered in box 19;

(c) in box 20, for the product concerned (delete as appropriate), one of the following:

— Trigo duro, código NC 1001 10 00/trigo común, código NC 1001 90 99 cuya calidad cumple las disposiciones del Reglamento (CE) nº 778/1999

[1] OJ L 161, 29.6.1996, p. 125.

[2] OJ L 117, 24.5.1995, p. 2.

[3] OJ L 331, 2.12.1988, p. 1.

— Hård hvede, KN-kode 1001 10 00/blød hvede, KN-kode 1001 90 99 af kvalitet som fastsat i forordning (EF) nr. 778/1999

— Hartweizen der KN-Codes 1001 10 00/Weichweizen der KN-Codes 1001 90 99 von einer Qualität gemäß den Bestimmungen der Verordnung (EG) Nr. 778/1999

— Σκληρός σίτος, κωδικός ΣΟ 1001 10 00/μαλακός σίτος κωδικός ΣΟ 1001 90 99, του οποίου η ποιότητα είναι σύμφωνη με τις διατάξεις του κανονισμού (ΕΚ) αριθ. 778/1999

— Durum wheat CN code 1001 10 00/Common wheat CN code 1001 90 99, of which the quality conforms with the provisions of Regulation (EC) No 778/1999

— Blé dur du code NC 1001 10 00/blé tendre du code NC 1001 90 99, de qualité conforme aux dispositions du règlement (CE) nº 778/1999

— Frumento duro, codice NC 1001 10 00/frumento tenero, codice NC 1001 90 99, di qualità conforme a quanto prescritto dal regolamento (CE) n. 778/1999

— Harde tarwe, GN-code 1001 10 00/zachte tarwe, GN-code 1001 90 99, waarvan de kwaliteit aan de bepalingen van Verordening (EG) nr. 778/1999 beantwoordt

— Trigo duro do código NC 1001 10 00/trigo mole do código NC 1001 90 99, de qualidade conforme às disposições do Regulamento (CE) n.º 778/1999

— CN-koodiin 1001 10 00 kuuluva durumvehnä/CN-koodiin 1001 90 99 kuuluva vehnä, joka on laadultaan asetuksen (EY) N:o 778/1999 mukainen

— Durumvete med KN-nummer 1001 10 00/vete med KN-nummer 1001 90 99 av en kvalitet som överensstämmer med bestämmelserna i förordning (EG) nr 778/1999.

(d) in box 24, with the serial number for the quota in question, one of the following:

— Derecho cero. Reglamento (CE) nº 1095/96. Contingente arancelario nº

— Toldfritagelse. Forordning (EF) nr. 1095/96. Toldkontingent nr.

— Zollfrei. Verordnung (EG) Nr. 1095/96. Zollkontingent Nr.

— Μηδενικός δασμός. Κανονισμός (ΕΚ) αριθ. 1095/96. Δασμολογική ποσόστωση αριθ.

— Zero duty. Regulation (EC) No 1095/96. Tariff quota No

— Droit zéro. Règlement (CE) nº 1095/96. Contingent tarifaire nº

— Dazio zero. Regolamento (CE) n. 1095/96. Contingente tariffario n.

— Nulrecht. Verordening (EG) nr. 1095/96. Tariefcontingent nr.

— Direito igual a zero. Regulamento (CE) n.º 1095/96. Contingente pautal n.º

— Tulliton. Asetus (EY) N:o 1095/96. Tariffikiintiö N:o

— Tullsats 0. Förordning (EG) nr 1095/96. Tullkvot nr.

The serial number of the quota for 300 000 tonnes of quality wheat shall be 09.4049 and that of the quota for 50 000 tonnes of durum wheat shall be 09.4059;

(e) notwithstanding Regulation (EEC) No 3719/88, rights deriving from the licence shall not be transferable.

Article 5

Representative samples of each import shall be taken by the customs authorities with a view to carrying out the necessary tests to establish that the quality imported complies with the quality criteria referred to in Article 1(1) and (2), in accordance with Article 6(2) and (4) of Regulation (EC) No 1249/96. Irrespective of the results of the analyses carried out under Article 2(2)(c), only the tests carried out by the customs authorities shall be valid for the purposes of attesting to the quality of the product concerned. If, however, the Commission officially recognises a quality certificate issued by the State of origin of the goods, samples shall be taken only in verification of the certified quality of at least 3 % of the imported goods for each port of entry.

The cost of inspection and sampling shall be borne by the holder of the import licence.

Article 6

On the basis of the tests referred to in Article 5, the import security referred to in Article 1(3) shall be released in respect of the quantity of wheat of a quality complying with:

— the criteria referred to in Article 1(1), in the case of the quota for 300 000 tonnes of quality wheat, and

— the criteria referred to in Article 1(2), in the case of the quota for 50 000 tonnes of durum wheat.

Should the tests referred to in Article 5 show that the quality of the imported product is below that required, Regulation (EC) No 1249/96 shall apply. In such cases the import duty in force for wheat of the quality in question shall be held back from the security referred to in Article 1. The additional amount of EUR 5 per tonne referred to in Article 1 shall be held back as a penalty and the balance of the security shall be released.

Article 7

Within two working days following the issue of import licences, Member States shall inform the Commission by telex, fax or telegram, using the model in Annex II, of the quantity of wheat for which licences have been issued and the country of origin of the product.

The notifications referred to in paragraph 1 shall be made even where no applications have been submitted, nor licences issued.

Article 8

Regulations (EC) No 2228/96 and (EC) No 529/97 are hereby repealed.

Article 9

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, 15 April 1999.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

Minimum quality criteria for wheat imported under the tariff quota for 300 000 tonnes of quality wheat opened by Regulation (EC) No 1095/96

Quality criteria	Type of wheat	
	Durum wheat	Common wheat
	CN code 1001 10 00	CN code 1001 90 99
Specific weight in kg/hl greater than or equal to	80	78
Grains which have lost their vitreous aspect	maximum 20,0 %	—
Matter which is not quality wheat grains of unimpaired quality, of which:	maximum 10,0 %	maximum 10,0 %
— broken and/or shrivelled grains	maximum 7,0 %	maximum 7,0 %
— grains damaged by pests	maximum 2,0 %	maximum 2,0 %
— grains affected with fusariosis and/or mottled grains	maximum 5,0 %	—
— sprouted grains	maximum 0,5 %	maximum 0,5 %
Miscellaneous impurities (Schwarzbesatz)	maximum 1,0 %	maximum 1,0 %
Hagberg falling number	minimum 250	minimum 230
Protein content (13,5 % moisture content)	—	minimum 14,6 %

ANNEX II

Model for the notifications referred to in Articles 3 and 7

Quota for 300 000 tonnes of quality wheat Serial No: 09.4049	Application No	Quantity (tonnes)	Country of origin
Common wheat CN 1001 90 99	1. 2. . . .		
Durum wheat CN 1001 10 00	1. 2. . . .		
Quota for 50 000 tonnes of durum wheat Serial No: 09.4059	Application No	Quantity (tonnes)	Country of origin
Durum wheat CN 1001 10 00	1. 2. . . .		