COMMISSION REGULATION (EEC) No 4138/87

of 9 December 1987

determining the conditions under which contain potatoes, sweet corn, cereals, oil seeds and oleaginous fruit, for sowing, are eligible on import for a favourable tariff arrangement by reason of their end-use.

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987, on the tariff and statistical nomenclature and on the Common Customs Tariff [1], and in particular Article II thereof,

Whereas Council Regulation (EEC) No 950/68 of 28 June 1968 on the Common Customs Tariff [2], as last amended by Regulation (EEC) No 3529/87 [3], established the Common Customs Tariff on the basis of the nomenclature of the Convention of 15 December 1950 concerning the nomenclature to be used for the classification of goods in customs tariffs;

Whereas, on the basis of Council Regulation (EEC) No 97/69 of 16 January 1969 on measures to be taken for the uniform application of the nomenclature of the Common Customs Tariff [4], as last amended by Regulation (EEC) No 2055/84 [5], Commission Regulation (EEC) No 1536/77 [6], as last amended by Regulation (EEC) No 1259/82 [7], determined the condition of entry of seeds under subheadings 07.01 A I, 10.01 A, 10.05 A, 10.06 A and 12.01 A of the Common Customs Tariff;

Whereas Regulation (EEC) No 2658/87 has repealed and replaced, on the one hand, Regulation (EEC) No 950/68 in adopting the new tariff and statistical nomenclature (combined nomenclature) based on the International Convention on the Harmonized Commodity Description and Coding System and, on the other hand, Regulation (EEC) No 97/69; whereas it is consequently appropriate, for reasons of clarity, to replace Regulation (EEC) No 1536/77 by a new regulation taking over the new nomenclature as well as the new legal base; whereas, for the same reason, it is appropriate to incorporate in this new text all the amendments made to date; whereas it is also appropriate to add sorghum for which a new tariff line has recently been created;

Whereas Regulation (EEC) No 2658/87 refers in the subheadings reproduced in Article 1 to potatoes, cereals, oils seeds and oleaginous fruit, indicated in the respective subheadings; whereas entry under these subheadings is subject to the conditions laid down in the relevant Community provisions; whereas, in order to ensure uniform application of the Common Customs Tariff, provisions specifying those conditions must be laid down;

Whereas the Council has adopted Directive 66/403/EEC of 14 June 1966 on the marketing of seed potatoes [8], as last amended by Directive 87/374/EEC [9], Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed [10], as last amended by Directive 87/120/EEC [11] and which also refers to sweet corn seed and Directive 69/208/EEC of 30 June 1969 on the marketing of seed of oil and fibre plants [12], as last amended by Directive 87/120/EEC;

Whereas Articles 15, 16 and 15 respectively of these Directives provide that the Council shall determine whether seeds harvested in a third country and affording the same assurances as regards their characteristics and the arrangements for their examination, for ensuring identity, for marking and for control are equivalent in these respects to seeds harvested within the Community and complying with the provisions of the Directive concerned;

Whereas the Council has made such determinations with regard to certain non-member countries,

— in the case of seed potatoes, by its Fourth Council Decision 81/956/EEC of 16 November 1981, on the equivalence of seed potatoes produced in third countries [13], as last amended by Decision 87/144/EEC [14],

— in the case of spelt, hybrid maize seed, rice straw, grain sorghum and oil seeds and oleoginous fruit, by its Seventh Council Decision 85/356/EEC of 27 June 1985, on the equivalence of seeds produced in third countries [15], as last amended by Decision 87/521/EEC [16] and by its

(1) OJ No L 256, 7. 9. 1987, p. 1.
(2) OJ No L 172, 22. 7. 1968, p. 1.
(3) OJ No L 336, 26. 11. 1987, p. 3.
(4) OJ No L 14, 21. 1. 1969, p. 1.
(5) OJ No L 191, 19. 7. 1984, p. 1.
(6) OJ No L 171, 9. 7. 1977, p. 13.
(7) OJ No L 147, 26. 5. 1982, p. 10.
(8) OJ No 125, 11. 7. 1966, p. 2320/66.
(9) OJ No L 197, 19. 7. 1987, p. 36.
(10) OJ No 125, 11. 7. 1966, p. 2309/66.
(11) OJ No L 49, 18. 2. 1987, p. 39.
(12) OJ No L 169, 10. 7. 1969, p. 3.
(13) OJ No L 351, 7. 12. 1981, p. 1.
(14) OJ No L 57, 27. 2. 1987, p. 5.
(15) OJ No L 195, 26. 7. 1985, p. 20.
(16) OJ No L 304, 27. 10. 1987, p. 42.

Seventh Council Decision 85/355/EEC of 27 June 1985 on the equivalence of field inspections carried out in third countries on seed producing crops [1] as last amended by Decision 87/520/EEC [2].

Whereas it follows from the very terms in which the three abovementioned subheadings are drawn that products may be entered under one of these subheadings only if they have specific characteristics which make them suitable for sowing;

Whereas certain specific characteristics were prescribed by the Council when it determined that there was equivalence between the plants and seeds in question produced in certain non-member countries and plants and seeds of the same kind harvested within the Community; whereas the said characteristics should therefore constitute the conditions of entry under the subheadings concerned;

Whereas, as regards spelt, rice, maize, sorghum, oil seeds and oleaginous fruit of a kind to which the provisions of Directives 66/402/EEC and 69/208/EEC do not apply, it is appropriate, pending harmonization at Community level of provisions for these goods and given that there is little trade in them, to make their entry under their respective subheadings referred to in Article 1 respectively subject to conditions to be established by the competent authorities of the Member States;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Nomenclature Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The entry of potatoes, sweet corn, cereals, oil seeds and oleaginous fruit, listed below, under their respective subheadings in the combined nomenclature shall be subject to the conditions laid down in Articles 2 to 5:

Description	CN code
Seed potatoes	0701 10 00
Sweet corn, hybrids for sowing	0712 90 11
Cereals:	
— Spelt for sowing	1001 90 10
— Hybrid maize seed	1005 10 11
	1005 10 13
	1005 10 15
	1005 10 19
— Rice for sowing	1006 10 10
— Sorghum hybrid for sowing	1007 00 10
Oil seeds and fruits, whether or not broken:	
— Soya beans for sowing	1201 00 10
— Groundnuts for sowing	1202 10 10
— Linseed for sowing	1204 00 10
— Pope or colza seeds for sowing	1205 00 10
— Sunflower seeds for sowing	1206 00 10
— Palm nuts and kernels for sowing	1207 10 10
— Cotton seeds for sowing	1207 20 10
— Castor oil seeds for sowing	1207 30 10
— Sesamum seeds for sowing	1207 40 10
— Mustard seeds for sowing	1207 50 10
— Safflower seeds for sowing	1207 60 10
— Poppy seeds for sowing	1207 91 10
— Shea nuts (karite nuts) for sowing	1207 92 10
— Other seeds for sowing	1207 99 10

Article 2

Seed potatoes shall satisfy the conditions laid down in accordance with Article 15 of Directive 66/403/EEC.

Article 3

Sweet corn, spelt, hybrid maize, rice and sorghum hybrid for sowing shall satisfy the conditions laid down in accordance with Article 16 of Directive 66/402/EEC.

Article 4

Oil seeds and oleaginous fruits for sowing shall satisfy the conditions laid down in accordance with Article 15 of Directive 69/208/EEC.

Article 5

Sweet corn, spelt, hybrid maize, rice, sorghum hybrid, oil seeds and oleaginous fruit of a kind to which the provisions of Directives 66/402/EEC and 69/208/EEC do not apply shall only be entered under the subheadings indicated in Article 1 if the party concerned proves to the satisfaction of the competent authorities of the Member States that these products are in practice intended for sowing.

Article 6

Regulation (EEC) No 1536/77 is hereby repealed.

[1] OJ No L 195, 26. 7. 1985, p. 1.
[2] OJ No L 304, 27. 10. 1987, p. 40.

Article 7

Each Member State shall inform the Commission of the steps taken by its central administration for the purposes of applying this Regulation.

The Commission shall forthwith communicate this information to the other Member States.

Article 8

This Regulation shall enter into force on 1 January 1988.

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

Done at Brussels, 9 December 1987.

For the Commission
COCKFIELD
Vice-President