

COMMISSION REGULATION (EC) No 529/97

of 21 March 1997

opening and administering a tariff quota of 300 000 tonnes of quality wheat and
repealing Regulation (EC) No 1854/94

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 parts of its World Trade Organization 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; whereas these imports have been governed by Commission Regulation (EC) No 1854/94⁽²⁾, as amended by Regulation (EC) No 2547/94⁽³⁾, since the initial introduction of this quota; where this Regulation should be repealed;

Whereas an import licence must be presented for these imports; whereas it is necessary to specify the terms under which these licences are issued;

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

Whereas, to prevent speculation, the validity of the import licences should be no more than seven days and the plant where the imported wheat is to be processed should be identified;

Whereas the specific provisions governing the organization of the imports, in particular those relating to notices inviting applications for import licences, will be adopted in accordance with the procedure laid down in Article 23 of Council Regulation (EEC) No 1766/92⁽⁴⁾, as last amended by Commission Regulation (EC) No 923/96⁽⁵⁾;

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 of 300 000 tonnes of quality wheat falling within CN codes 1001 10 00 and 1001 90 99 of a minimum quality satisfying the criteria laid down in Annex I shall be subject to an import licence obtained in accordance with this Regulation.

2. In order to ensure the quality of the imported product, eligibility to import at the zero duty shall be dependent upon the importer lodging with the competent authorities, on the day the declaration of release into free circulation is accepted, an import guarantee equal to the import duty on low-quality common wheat, plus ECU 5 per tonne.

Article 2

1. An application for an import licence in relation to the quantity referred to in Article 1 shall be admissible provided it complies with the following conditions:

- (a) it relates to a quantity of wheat of between 500 tonnes at least and 10 000 tonnes at most;
- (b) where the application is submitted by an agent, it contains the name and address of the principal; and
- (c) it is accompanied by:

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

— proof that a guarantee has been lodged of ECU 15 per tonne with the competent authority of the Member State concerned guaranteeing good faith on the part of the applicant,

— a written undertaking by the applicant that all the produce imported will be processed within six months of the date of acceptance for free circulation. The importer shall specify where processing is to take place:

⁽¹⁾ OJ No L 146, 20. 6. 1996, p. 1.

⁽²⁾ OJ No L 192, 28. 7. 1994, p. 31.

⁽³⁾ OJ No L 270, 21. 10. 1994, p. 7.

⁽⁴⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽⁵⁾ OJ No L 126, 24. 5. 1996, p. 37.

- by naming a processing firm in a Member State, or
 - by indicating a maximum of five different processing plants.
2. Any application where one or more of its terms differ from those provided for in the notice inviting applications for import licences shall also be inadmissible.
3. An application may not be withdrawn.

Article 3

1. Member States shall inform the Commission by telex, fax or telegram within two working days from the last day for submitting an application (ending a period of at least 30 days) and in accordance with the model in Annex II:

- of the number of admissible applications submitted,
- of the quantity of wheat in respect of which applications for licences have been submitted.

This information is forwarded even where no application has been submitted.

2. In the event that that quantity exceeds the quantity of one or other type of wheat to be imported during 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. The import licences shall be issued immediately upon expiry of the time limit referred to in paragraph 2, and in any event within three working days.

4. Article 6 (1) of Regulation (EC) No 1162/95⁽¹⁾ notwithstanding, the certificates shall be valid for no more than seven days. Validity shall start on the day they are issued, within the meaning of Article 21 (2) of Regulation (EEC) No 3719/88⁽²⁾.

Article 4

The import licence shall contain the following indications and be subject to the following conditions:

- (a) Sections 7 and 8 shall indicate, respectively, the country of provenance and the country of origin of the wheat concerned,
- (b) in Section 9, the indication 'no' shall be marked with a cross,
- (c) by derogation from Article 8 (4) of Regulation (EEC) No 3719/88, the quantity placed in free circulation shall not exceed that stated in Sections 17 and 18, and

the figure 0 shall accordingly be entered in Section 19,

(d) Section 20 shall contain one of the following indications:

- Trigo duro/común, código NC 1001 10 00/1001 90 99 cuya calidad cumple con lo dispuesto en el Reglamento (CE) n° 529/97
- Hård/blød hvede, KN-kode 1001 10 00/1001 90 99 af kvalitet som fastsat i forordning (EF) nr. 529/97
- Hart-/Weichweizen der KN-Codes 1001 10 00/1001 90 99 von einer Qualität gemäß den Bestimmungen der Verordnung (EG) Nr. 529/97
- Σκληρός/μαλακός σίτος, κωδικός ΣΟ 1001 10 00/1001 90 99, του οποίου η ποιότητα είναι σύμφωνη με τις διατάξεις του κανονισμού (ΕΚ) αριθ. 529/97
- Durum/Common wheat CN code 1001 10 00/1001 90 99, of which the quality conforms with the provisions of Regulation (EC) No 529/97
- Blé dur/tendre du code NC 1001 10 00/1001 90 99, de qualité conforme aux dispositions du règlement (CE) n° 529/97
- Frumento duro/tenero, codice NC 1001 10 00/1001 90 99, di qualità conforme a quanto prescritto dal regolamento (CE) n. 529/97
- Harde/zachte tarwe, GN-code 1001 10 00/1001 90 99, waarvan de kwaliteit aan de bepalingen van Verordening (EG) nr. 529/97 beantwoordt
- Trigo duro/mole do código NC 1001 10 00/1001 90 99, de qualidade conforme às disposições do Regulamento (CE) n° 529/97
- CN-koodiin 1001 10 00/1001 90 99 kuuluva durumvehnä/vehnä, joka on laadultaan asetuksen (EY) N:o 529/97 mukainen
- Durumvete/vete med KN-nummer 1001 10 00/1001 90 99 av en kvalitet som överensstämmer med bestämmelserna i förordning (EG) nr 529/97,

(e) Section 24 shall contain one of following indications:

- Derecho cero. Reglamento (CE) n° 1095/96. Contingente arancelario n° 72
- Toldfritagelse. Forordning (EF) nr. 1095/96. Toldkontingent nr. 72
- Nullsatz. Verordnung (EG) Nr. 1095/96. Zollkontingent Nr. 72
- Μηδενικός δασμός. Κανονισμός (ΕΚ) αριθ. 1095/96. Δασμολογική ποσόστωση αριθ. 72
- Zero duty. Regulation (EC) No 1095/96. Tariff quota No 72
- Droit zéro. Règlement (CE) n° 1095/96. Contingent tarifaire n° 72
- Dazio zero. Regolamento (CE) n. 1095/96. Contingente tariffario n. 72
- Nulrecht. Verordening (EG) nr. 1095/96. Tariefcontingent nr. 72

⁽¹⁾ OJ No L 117, 24. 5. 1995, p. 2.

⁽²⁾ OJ No L 331, 2. 12. 1988, p. 1.

- Direito igual a zero. Regulamento (CE) n° 1095/96. Contingente pautal n° 72
 - Tulliton. Asetus (EY) N:o 1095/96. Tariffikiintiö N:o 72
 - Tullisats 0. Förordning (EG) nr 1095/96. Tullkvot nr 72,
- (f) by derogation from Regulation (EEC) No 3719/88, rights deriving from the licence shall not be transferrable.

Article 5

1. Representative samples of each import shall be taken by the customs authorities under Article 6 (1) and (2) of Regulation (EC) No 1249/96⁽¹⁾, with a view to carrying out the necessary tests to establish that the quality imported conforms to specifications.

The representative samples shall be kept by the customs authorities for six months.

2. Before the goods are moved for processing, a control copy T5 shall be prepared by the customs clearance office in accordance with the detailed rules laid down in Commission Regulation (EEC) No 2454/93⁽²⁾. The name of the factory and the place of processing shall be entered in Section 104 of the T5 document. However, if the results of the test referred to in paragraph 1 are known before the departure of the goods and demonstrate that the quality is not conform but is instead below the quality required of high standard common wheat in the second subparagraph of Article 6 (1) of Regulation (EC) No 1249/96, no T5 document shall be issued and Article 6 (1) shall apply.

Article 6

1. On presentation of the proof certifying that the wheat was processed within six months of the date the licence was issued in one of the places stipulated in

the applicant's written undertaking and if the quality of the product import conforms to the criteria referred to in Article 1 (1), the import security referred to in Article 1 (2) shall be released for the quantity in respect of which proof has been supplied. Should the tests referred to in Article 5 show that the quality of the imported product is below the required quality, the wheat in question shall be classified in accordance with Regulation (EC) No 1249/96. In such cases the import duty in force for wheat of the quality in question, plus ECU 5 per tonne, shall be held back out of the amount of the guarantee referred to in Article 1. The balance shall be released.

2. The guarantee of good faith referred to in the third indent of Article 2 (1) (c) shall be released upon presentation of proof that the declaration of release into free circulation has been accepted.

Article 7

At the latest within two working days following the issue of import licences, Member States shall use the model in Annex II to inform the Commission by telex, fax or telegram 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 application has been submitted, no licence has been issued or no imports have taken place.

Article 8

Regulation (EC) No 1854/94 is 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, 21 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 161, 29. 6. 1996, p. 125.

⁽²⁾ OJ No L 253, 11. 10. 1993, p. 1.

ANNEX I

Minimum quality criteria for wheat imported under the tariff quota opened by Council 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 greater than or equal to	80 kg/hl	78 kg/hl
Maximum percentage of grains which have lost their vitreous aspect	20,0 % maximum	—
Grains of less than irreproachable quality, of which:	10,0 % maximum	10,0 % maximum
— broken and/or overheated grains	7,0 % maximum	7,0 % maximum
— grains attacked by predators	2,0 % maximum	2,0 % maximum
— grains affected with fusariosis and/or by maggots	5,0 % maximum	—
— sprouted grains	0,5 % maximum	0,5 % maximum
Various impurities (Schwarzbesatz)	1,0 % maximum	1,0 % maximum
Habsberg falling number	at least 250	at least 230
Protein content (at 13,5 % humidity)	—	at least 14,6 %

ANNEX II

The model for the notifications referred to in Articles 3 and 7

Product	Application No	Quantity (tonnes)	Quantity/country of origin
Common wheat CN 1001 90 99	1		
	2		
	...		
Durum wheat CN 1001 10 00	1		
	2		
	...		