

COMMISSION REGULATION (EEC) No 1626/85**of 14 June 1985****on protective measures applicable to imports of certain Morello cherries**

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Treaty; whereas it is therefore necessary to apply
protective measures;

Having regard to the Treaty establishing the European
Economic Community,

Whereas the aim of the protective measures should be
to exclude the marketing of imported products at
abnormally low prices;

Having regard to Council Regulation (EEC) No 516/77
of 14 March 1977 on the common organization of the
market in products processed from fruit and vege-
tables⁽¹⁾, as last amended by Regulation (EEC) No
746/85⁽²⁾, and in particular Article 14 (2) thereof,

Whereas this objective can be achieved by introducing
a minimum import price to be respected on import
into the Community and by applying countervailing
charges on products which do not respect that price;
whereas the countervailing charges should be calcu-
lated on the basis of the prices applied by supplier
countries;

Whereas the marketing of Morello cherries in syrup
produced in the Community is characterized by
competition from non-member countries at prices
significantly below the prices at which Community
products can be marketed; whereas that situation has
been aggravated by imports of raw material for proces-
sing, also at prices significantly below the prices
obtaining in the Community; whereas the production
of Morello cherries in syrup during the marketing year
1984/85 fell by more than 20 % compared with the
production during the previous marketing year;
whereas imports from non-member countries have
increased significantly; whereas such imports have
considerably embarrassed the marketing of Commu-
nity products; whereas low price levels continue to be
applied by non-member countries;

Whereas the minimum import price may be undercut
due to events which are not a consequence of prices
applied by non-member countries, e.g. fluctuation of
exchange rates; whereas that fact should be taken into
consideration when countervailing charges are fixed;

Whereas in these circumstances the Community
market is exposed to serious disturbances which might
endanger the objectives set out in Article 39 of the

Whereas countervailing charges should not be levied
in respect of products coming from non-member
countries which are prepared and in a position to
guarantee the prices of products exported by them and
that any deflections of trade will be avoided;

Whereas account should be taken of the special situa-
tion of products which have already left the exporting
country at the time this Regulation is published,

HAS ADOPTED THIS REGULATION:

Article 1

1. On import into the Community of the following products the minimum import price shown for each product shall be respected:

⁽¹⁾ OJ No L 73, 21. 3. 1977, p. 1.

⁽²⁾ OJ No L 81, 23. 3. 1985, p. 10.

<i>(ECU/100 kg net)</i>		
CCT heading No	Description	Minimum import price
ex 08.10 D	Morello cherries, preserved by freezing, not containing added sugar	48,20
ex 20.03	Morello cherries, preserved by freezing, containing added sugar	48,20
ex 20.06	Fruit otherwise prepared or preserved, whether or not containing added sugar :	
	B. II. Not containing added spirit :	
	a) Containing added sugar, in immediate packings of a net capacity of more than 1 kg :	
	ex 8. Morello cherries in syrup	60,80
	b) Containing added sugar, in immediate packings of a net capacity of 1 kg or less :	
	ex 8. Morello cherries in syrup	67,10
	c) Not containing added sugar, in immediate packings of a net capacity :	
	1. Of 4,5 kg or more :	
	ex dd) Morello cherries	53,70
	2. Of less than 4,5 kg :	
	ex bb) Morello cherries	58,70

2. If the minimum import price is not respected a countervailing charge as set out in the Annex shall be applied.

3. The countervailing charge referred to in paragraph 2 shall not be levied on imports from non-member countries which are prepared and in a position to guarantee that the import of products originating and coming from their territory will not be lower than the minimum import price and that any deflections of trade will be avoided.

Non-member countries to which this paragraph applies shall be indicated on a list drawn up by the Commission.

Article 2

1. The customs authorities shall, for each consignment at the time of completion of customs import formalities for free circulation, compare the import price with the minimum import price.

2. The minimum import price is respected when the comparison referred to in paragraph 1 shows that the import price expressed in the currency of the importing Member State is not less than the minimum price applicable on the day on which the entry for free circulation is accepted.

3. The import price shall be declared on the entry for free circulation and the entry shall be accompanied by all the documents required to verify the price.

Article 3

1. The following factors shall constitute the import price :

- (a) the fob price in the country of origin ; and
- (b) transportation and insurance cost up to the place of entry into the customs territory of the Community.

2. Where the factors referred to in paragraph 1 are expressed in a currency other than that of the importing Member State the provisions on the valuation of goods for customs purposes shall be applied when converting such currency into the currency of the importing Member State.

3. If the invoice presented to the customs authorities has not been drawn up by the exporter in the country in which the products originated or if the authorities are not satisfied that the price declared reflects the fob price in the country of origin, the competent authorities of the Member State shall take the necessary measures to determine that price, in particular by reference to the importer's resale price.

Article 4

1. This Regulation shall not apply to products for which it has been proved that they have left the supplier country before the day of publication of this Regulation.

2. The parties concerned shall provide proof, to the satisfaction of the competent authorities, that the conditions set out in paragraph 1 have been complied with.

However, the competent authorities may regard the products as having left the supplier country before the day of publication of this Regulation when one of the following documents is submitted :

- in the case of transport by sea or waterway, the bill of lading showing that loading took place before that day,
- in case of transport by rail, the consignment note accepted by the railways of the expediting country before that day,
- in case of transport by road, the TIR carnet presented to the first customs office before that day,

— in case of transport by air, the air consignment note showing that the airline received the products before that day.

3. The provisions of paragraphs 1 and 2 shall apply only in so far as the entry for free circulation has been accepted by the customs authorities before 15 September 1985.

Article 5

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

It shall apply until 9 May 1986.

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

Done at Brussels, 14 June 1985.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX

COUNTERVAILING TAXES

1. Morello cherries, preserved by freezing, falling within subheading 08.10 D or heading No 20.03 of the Common Customs Tariff :

(ECU/100 kg net)

Import price applied		Countervailing tax to be charged
less than	but not less than	
48,20	47,72	0,48
47,72	46,75	1,45
46,75	45,31	2,89
45,31	38,56	9,64
38,56		10,50

2. Morello cherries in syrup, in immediate packings of a net capacity of more than 1 kilogram, falling within subheading 20.06 B II a) 8 of the Common Customs Tariff :

(ECU/100 kg net)

Import price applied		Countervailing tax to be charged
less than	but not less than	
60,80	60,19	0,61
60,19	58,98	1,82
58,98	57,15	3,65
57,15	48,64	12,16
48,64	36,48	24,32
36,48		31,44

3. Morello cherries in syrup, in immediate packings of a net capacity of 1 kilogram or less, falling within subheading 20.06 B II b) 8 of the Common Customs Tariff :

(ECU/100 kg net)

Import price applied		Countervailing tax to be charged
less than	but not less than	
67,10	66,43	0,67
66,43	65,09	2,01
65,09	63,07	4,03
63,07	53,68	13,42
53,68	40,26	26,84
40,26		33,55

4. Morello cherries, not containing added sugar, in immediate packings of a net capacity of 4,5 kilograms or more, falling within subheading 20.06 B II c) 1 dd) of the Common Customs Tariff :

(ECU/100 kg net)

Import price applied		Countervailing tax to be charged
less than	but not less than	
53,70	53,16	0,54
53,16	51,09	1,61
52,09	50,48	3,22
50,48	42,96	10,74
42,96	32,22	21,48
32,22		25,57

5. Morello cherries, not containing added sugar, in immediate packings of a net capacity of 4,5 kilograms or more, falling within subheading 20.06 B II c) 2 bb) of the Common Customs Tariff :

(ECU/100 kg net)

Import price applied		Countervailing tax to be charged
less than	but not less than	
58,70	58,11	0,59
58,11	56,94	1,76
56,94	55,18	3,52
55,18	46,96	11,74
46,96	35,22	23,48
35,22		31,86