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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.7.2008
COM(2008) 488 final

2008/0155 (CNS)

Proposal for a

COUNCIL REGULATION

on the common system of trade for ovalbumin and lactalbumin

(Codified version)

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him new opportunities and the chance to make use of the specific rights it gives him.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

2. On 1 April 1987 the Commission therefore decided¹ to instruct its staff that all legislative acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that the Community rules are clear and readily understandable.

3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this², stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal Community legislative procedure.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of Regulation (EEC) No 2783/75 of the Council of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin³. The new Regulation will supersede the various acts incorporated in it⁴; this proposal fully preserves the content of the acts being codified and hence does no more than bringing them together with only such formal amendments as are required by the codification exercise itself.

¹ COM(87) 868 PV.

² See Annex 3 to Part A of the Conclusions.

³ Carried out pursuant to the Communication from the Commission to the European Parliament and the Council – Codification of the Acquis communautaire, COM(2001) 645 final.

⁴ See Annex I to this proposal.

5. The codification proposal was drawn up on the basis of a preliminary consolidation, in all official languages, of Regulation (EEC) No 2783/75 and the instruments amending it, carried out by the Office for Official Publications of the European Communities, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table contained in Annex II to the codified Regulation.

↓ 2783/75 (adapted)

2008/0155 (CNS)

Proposal for a

COUNCIL REGULATION

on the common system of trade for ovalbumin and lactalbumin

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 26, 87 to 89, 132 and following, and 308 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁵,

Having regard to the opinion of the European Economic and Social Committee⁶,

Whereas:

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- (1) Regulation (EEC) No 2783/75 of the Council of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin⁷ has been substantially amended several times⁸. In the interests of clarity and rationality the said Regulation should be codified.

↓ 2783/75 Recital 1 (adapted)

- (2) Ovalbumin, which is not included in Annex I to the Treaty, is not subject to application of the agricultural provisions of the Treaty, while egg yolk is.

⁵ OJ C [...], [...], p. [...].

⁶ OJ C [...], [...], p. [...].

⁷ OJ L 282, 1.11.1975, p. 104. Regulation as last amended by Commission Regulation (EC) No 2916/95 (OJ L 305, 19.12.1995, p. 49).

⁸ See Annex I.

↓ 2783/75 Recital 2

- (3) A situation arises therefrom which may adversely affect the efficiency of the common agricultural policy in the egg sector.

↓ 2783/75 Recital 3

- (4) In order to reach a balanced solution, a common system of trade should be established for ovalbumin corresponding to that established for eggs. It is necessary to extend the application of this system to lactalbumin in view of the fact that the latter can to a large extent be substituted for ovalbumin.

↓ 2783/75 Recital 4 (adapted)

- (5) In pursuance of Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)⁹, a single market system for eggs has been established in the Community .

↓ 2783/75 Recital 5

- (6) The system of trade applicable to albumins should follow the system in force for eggs in view of the dependence of the former products on the latter.

↓ 3290/94 Recital 2 (adapted)

- (7) Under the Uruguay Round of multilateral trade negotiations, the Community has negotiated various agreements. Several of those agreements concern agriculture, in particular the Agreement on Agriculture¹⁰ .

↓ 3290/94 Recital 3 (adapted)

- (8) The Agreement on Agriculture requires the abolition of variable import levies and of the other measures and import charges. The rates of customs duty applicable to agricultural products in accordance with the Agreement on Agriculture are to be fixed in the Common Customs Tariff.

⁹ OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Regulation (EC) No 248/2008 (OJ L 76, 19.3.2008, p. 6).

¹⁰ OJ L 336, 23.12.1994, p. 22.

↓ 2783/75 Recitals 6 and 8
(adapted)
→₁ 3290/94 Recital 4 (adapted)

- (9) Ovalbumin prices normally follow egg prices, which are different in the Community and on the world market. The price of eggs is not the only factor other than processing costs affecting the price of albumin on the world market. →₁ In order to maintain a minimum level of protection against the adverse effects on the market as a result of tariffication, the Agreement ☒ on Agriculture ☒ permits the application of additional customs duties under precisely defined conditions but only to products subject to tariffication. ←

↓ 3290/94 Recital 5 (adapted)

- (10) The Agreement ☒ on Agriculture ☒ provides for a series of tariff quotas under arrangements for current and minimum access. The conditions applicable to such quotas are spelled out in detail in the Agreement ☒ on Agriculture ☒. In view of the large number of quotas and in order to ensure that they are implemented as effectively as possible, the Commission should be responsible for opening and administering them using the management committee procedure.

↓ 2783/75 Recital 9 (adapted)

- (11) By reason of the close economic relationship existing between the various egg products, it is necessary to provide for the possible adoption, for ovalbumin and lactalbumin, of marketing standards which correspond as far as possible with the marketing standards laid down for the products referred to in Article 1(1) ☒ (s) ☒ of Regulation (EC) No ☒ 1234/2007 ☒.

↓ 3290/94 Recital 12 (adapted)

- (12) In the common organisation of the market ☒ in eggs ☒, the exclusion from recourse to the arrangements for inward processing traffic falls exclusively within the competence of the Council. In the economic conditions arising under the Agreement ☒ on Agriculture ☒, it could prove necessary to react rapidly to market problems arising from the application of the said arrangements. In that regard competence should be conferred on the Commission to adopt urgent measures which are limited in time,

↓ 2783/75

HAS ADOPTED THIS REGULATION:

↓ 2783/75 (adapted)

✕ CHAPTER I ✕

✕ Scope ✕

↓ 2916/95 Art.1 pt. 6

Article 1

Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the following products:

↓ 2916/95 Art. 1 pt. 6 (adapted)

CN code	Description
3502	Albumins (including concentrates of two or more whey proteins, containing by weight more than 80 % whey proteins, calculated on the dry matter), albuminates and other albumin derivatives:
	– Egg albumin:
ex 3502 11	– – Dried:
✕ 3502 11 10 ✕	– – – ✕ Unfit, or to be rendered unfit, for human consumption ✕
3502 11 90	– – – Other
ex 3502 19	– – Other:
✕ 3502 19 10 ✕	– – – ✕ Unfit, or to be rendered unfit, for human consumption ✕
3502 19 90	– – – Other
ex 3502 20	– Milk albumin, including concentrates of two or more whey proteins:

☒ 3502 20 10 ☒	--	☒ Unfit, or to be rendered unfit, for human consumption ☒
	--	Other
3502 20 91	---	Dried (for example, in sheets, scales, flakes, powder)
3502 20 99	---	Other

↓ 3290/94 Art. 2 and Annex XII, Part B, pt. 2 (adapted)

☒ CHAPTER II ☒

☒ Trade with third countries ☒

↓ 3290/94 Art. 2 and Annex XII, Part B, pt. 2
→₁ Corrigendum 3290/94 (OJ L 196, 24.7.1997, p. 82)

Article 2

1. Imports into the Community, of any of the products listed in Article 1 →₁ may be subject ← to presentation of an import licence.

↓ 3290/94 Art. 2 and Annex XII, B, pt. 2 (adapted)

☒ 2. Import ☒ licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Article 4.

☒ 3. ☒ Import licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported during the term of validity of the licence; except in cases of *force majeure*, the security shall be forfeited in whole or in part if import is not carried out, or is only carried out partially, within that period.

☒ 4. ☒ The term of validity of ☒ import ☒ licences and other detailed rules for the application of ☒ paragraph 1 ☒ shall be adopted in accordance with the procedure ☒ referred to ☒ in Article ☒ 195(2) ☒ of Regulation (EC) No ☒ 1234/2007 ☒.

↓ 3290/94 Art. 2 and Annex XII, Part B, pt. 3 (adapted)
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Article 3

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 10 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

↓ 3290/94 Art. 2 and Annex XII, Part B, pt. 3
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2. The trigger prices below which an additional duty may be imposed shall be those notified by the Community to the World Trade Organization.

The trigger volumes to be exceeded in order to have the additional import duty imposed shall be determined particularly on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment under consideration.

Cif import prices shall be checked to that end against the representative prices for the product on the world market or on the Community import market for that product.

↓ 3290/94 Art. 2 and Annex XII, Part B, pt. 3 (adapted)
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4. The Commission shall adopt detailed rules for the application of ☒ paragraphs 1, 2 and 3 ☒ in accordance with the procedure ☒ referred to ☒ in Article ☒ 195(2) ☒ of Regulation (EC) No ☒ 1234/2007 ☒ . Such detailed rules shall specify in particular:

↓ 3290/94 Art. 2 and Annex XII, Part B, pt. 3
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- (a) the products to which additional import duties shall be applied under the terms of Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary to ensure application of paragraph 1 in accordance with Article 5 of the Agreement on Agriculture.

↓ 3290/94 Art. 2 and Annex XII, Part B, pt. 4 (adapted)
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Article 4

1. Tariff quotas for the products listed in Article 1 resulting from agreements concluded in the framework of the Uruguay Round of multilateral trade negotiations shall be opened and administered in accordance with detailed rules adopted under the procedure ☒ referred to ☒ in Article ☒ 195(2) ☒ of Regulation (EC) No ☒ 1234/2007 ☒.

↓ 3290/94 Art. 2 and Annex XII, Part B, pt. 4
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2. Quotas shall be administered by applying one of the following methods or a combination of them:

↓ 3290/94 Art. 2 and Annex XII, Part B, pt. 4 (adapted)
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- ☒ (a) ☒ method based on chronological order of the lodging of applications (first come, first served principle);
- ☒ (b) ☒ method of distribution in proportion to the quantities requested when the applications were lodged (using the simultaneous examination method);
- ☒ (c) ☒ method based on taking traditional trade patterns into account (using the traditional/new arrivals method).

↓ 3290/94 Art. 2 and Annex XII, Part B, pt. 4
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Other appropriate methods may be adopted.

They must avoid any discrimination between the operators concerned.

↓ 3290/94 Art. 2 and Annex XII, Part B, pt. 4 (adapted)
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3. Compliance with the limits on volumes arising from agreements concluded in accordance with Article ☒ 300 ☒ of the Treaty shall be ensured on the basis of the export certificates issued for the reference periods provided for therein and applicable to the products concerned. With regard to compliance with the obligations arising under the Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

↓ 3290/94 Art. 2 and Annex XII, Part B, pt. 4
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4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year, if necessary to be opened and, where appropriate, for:

- (a) guarantees covering the nature, provenance and origin of the product;
- (b) recognition of the document used for verifying the guarantees referred to in (a); and
- (c) the conditions under which import licences are issued and their term of validity.

↓ 3290/94 Art. 2 and Annex XII, Part B, pt. 5
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Article 5

Where prices on the Community market rise significantly and where that situation is likely to continue, thereby disturbing or threatening to disturb that market, appropriate measures may be taken.

↓ 3290/94 Art. 2 and Annex XII, Part B, pt. 5 (adapted)
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The Council, acting in accordance with the procedure laid down in Article ☒ 37(2) ☒ of the Treaty, shall, if necessary, adopt detailed rules for the application of ☒ the first paragraph of ☒ this Article.

↓ 2783/75 (adapted)

Article 6

For the products listed in Article 1, marketing standards may be adopted which, subject to the need to take into account the characteristics of those products, shall correspond to the marketing standards provided for in Article ☒ 116 ☒ of Regulation (EC) No ☒ 1234/2007 ☒ for the products listed in ☒ Part XIX of Annex I ☒ of that Regulation. In particular the standards may relate to grading by quality, packaging, storage, transport, presentation and marking.

The standards, their scope and the general rules for their application shall be adopted by the Council acting by a qualified majority on a proposal from the Commission.

↓ 3290/94 Art. 2 and Annex XII,
Part B, pt. 6 (adapted)

Article 7

1. To the extent necessary for the proper working of the common organisation of the market in eggs and this Regulation, the Council, acting in accordance with the voting procedure laid down in Article 37(2) of the Treaty on a proposal from the Commission, may, in special cases, prohibit in whole or in part the use of inward processing arrangements in respect of products listed in Article 1 of this Regulation which are intended for the manufacture of products listed in that Article.

↓ 3290/94 Art. 2 and Annex XII,
Part B, pt. 6

2. In derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by the inward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.

3. Measures decided on by the Commission may be referred to the Council by any Member State within a week of the day on which they were notified. The Council, acting by a qualified majority, may confirm, amend or repeal the Commission decision. If the Council has not acted within three months, the Commission decision shall be deemed to have been repealed.

↓ 3290/94 Art. 2 and Annex XII,
Part B, pt. 7

Article 8

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

↓ 3290/94 Art. 2 and Annex XII,
Part B, pt. 7 (adapted)

(a) the levying of any charge having equivalent effect to a customs duty;

☒ (b) ☒ the application of any quantitative restriction or measure having equivalent effect.

↓ 2783/75 (adapted)

☒ CHAPTER III ☒

☒ General provisions ☒

Article 9

Products specified in Article 1 which are manufactured or obtained from products to which Articles ☒ 23(2) ☒ and ☒ 24 ☒ of the Treaty do not apply shall not be admitted to free circulation within the Community.

Article 10

Member States and the Commission shall communicate to each other the information necessary for implementing this Regulation. Rules for the communication and distribution of such information shall be adopted in accordance with the procedure ☒ referred to ☒ in Article ☒ 195(2) ☒ of Regulation (EC) No ☒ 1234/2007 ☒.

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Article 11

Regulation (EEC) No 2783/75 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

Article 12

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

↓ 2783/75

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

Done at Brussels, [...]

For the Council
The President
[...]



ANNEX I

Repealed Regulation with list of its successive amendments

Regulation (EEC) of the Council No 2783/75
(OJ L 282, 1.11.1975, p. 104)

Commission Regulation (EEC) No 4001/87
(OJ L 377, 31.12.1987, p. 44)

Council Regulation (EC) No 3290/94 only Part B of Annex XII
(OJ L 349, 31.12.1994, p. 105)

Commission Regulation (EC) No 2916/95 only point 6 of Article 1
(OJ L 305, 19.12.1995, p. 49)

ANNEX II

CORRELATION TABLE

Regulation (EEC) No 2783/75	This Regulation
Article 1	Article 1
Article 2(1) first subparagraph	Article 2(1)
Article 2(1) second subparagraph	Article 2(2)
Article 2(1) third subparagraph	Article 2(3)
Article 2(2)	Article 2(4)
Article 3	Article 3
Article 4(1)	Article 4(1)
Article 4(2) introductory words	Article 4(2) introductory words
Article 4(2) first, second and third indents	Article 4(2) points (a), (b) and (c)
Article 4(3) and (4)	Article 4(3) and (4)
Articles 5 to 7	Articles 5 to 7
Article 8(1)	Article 8(1)
Article 8(2) introductory words	Article 8(2) introductory words
Article 8(2) first and second indents	Article 8(2) points (a) and (b)
Articles 9 and 10	Articles 9 and 10
Article 11	—
Article 12	—
-	Article 11
-	Article 12
Annex	—
—	Annex I
—	Annex II