Commission Regulation (EU) No 642/2010 of 20 July 2010 on rules of application (cereal sector import duties) for Council Regulation (EC) No 1234/2007 (codification)

COMMISSION REGULATION (EU) No 642/2010

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on rules of application (cereal sector import duties) for Council Regulation (EC) No 1234/2007

(codification)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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)[(1)], and in particular Article 143 in conjunction with Article 4 thereof,

Whereas:

(1) Commission Regulation (EC) No 1249/96 of 28 June 1996 on rules of application (cereal sector import duties) for Council Regulation (EEC) No 1766/92[(2)] has been substantially amended several times[(3)]. In the interests of clarity and rationality the said Regulation should be codified.

(2) Article 135 of Regulation (EC) No 1234/2007 provides for the common customs tariff duties to be charged when the products referred to in Article 1 thereof are imported. However, for the products referred to in Article 136(1) of that Regulation, the import duty is to be the intervention price valid for these products at the time of importation, increased by 55 % and then reduced by the cif import price applicable to the consignment.

(3) For the purposes of grading imported products, the products referred to in Article 136(1) of Regulation (EC) No 1234/2007 are, in certain cases, to be classed in several standard qualities. The standard qualities to be used should therefore be determined using objective grading criteria and tolerance rates should also be set allowing products to be given the most appropriate quality grading. Of the possible objective quality grading criteria for common wheat, protein content, specific weight and miscellaneous impurity (Schwarzbesatz) content are those most commonly used in the trade and also the easiest to use. For durum wheat, these criteria are specific weight, miscellaneous impurity (Schwarzbesatz) content and vitreous grain content. Imported goods are accordingly to be subjected to analysis to determine these parameters for each lot imported. However, where the Union has established an official recognition procedure for quality certificates issued by an authority of the country of origin of the goods, these analyses should be able to be carried out merely by way of verification on a sufficiently representative number of imported lots.

(4) Article 136(2) of Regulation (EC) No 1234/2007 provides that for the purposes of calculating the import duty, representative cif import prices are to be established on a regular basis for the products referred to in paragraph 1 of that Article. For the establishment of these prices, the use must be stipulated of quotations for the several wheat qualities and for the other cereals. The actual quotation sources to be used should be specified.

(5) The use of quotations for the various wheat types and for other cereals on the commodity exchanges of the United States of America will provide a basis both transparent and objective for establishing representative cif import prices. The addition of the commercial premium assigned on the United States market to each quality of the various cereals will allow the exchange quotation for each cereal to be converted into a fob export price from the United States of America. By the addition of sea freight costs between the Gulf of Mexico or the Great Lakes and a port of the Union that are quoted on the freight markets, these fob prices can be converted into representative cif import prices. Given the volume of freight passing through and the amount of trade at the port of Rotterdam, this port is the destination in the Union for which sea freight quotations are most widely known, most transparent and most easily available. The port of destination to be selected for the Union should therefore be Rotterdam.

(6) Accordingly, for the sake of transparency, the representative cif import prices referred to in Article 136(2) of Regulation (EC) No 1234/2007, are to be established from commodity exchange quotations for the cereal in question plus the commercial premium assigned to the cereal and sea freight costs between the Gulf of Mexico or the Great Lakes and the port of Rotterdam. However, freight cost differences by port of destination justify flat rate adjustment of the import duty for Union ports located on the Mediterranean and on the Black Sea, on the Atlantic coast of the Iberian Peninsula, in the United Kingdom and in Ireland, in the Nordic countries, in the Baltic States and in Poland. The factors of calculation of the representative cif import prices so established should be monitored daily so that the trend of these prices can be followed. In the case of sorghum and rye, the representative cif import price calculated for barley allows the market situation for those two products to be estimated and consequently the representative cif import price determined for barley applies for these cereals.

(7) For the purpose of setting the import duty on the cereals referred to in Article 136 of Regulation (EC) No 1234/2007 a period of 10 working days recording of the representative cif import prices for each cereal will reflect market trends without introducing uncertainty. Import duties for these products can therefore be determined on the fifteenth day and the last working day of each month using the average representative cif import price recorded over that period. The import duty thus calculated can be applied for two weeks without any appreciable distorting effect on the duty paid import price. However, if no exchange quotation is available during the calculation period for the representative cif import prices or if as a result of sudden changes in the components of the calculation of import duty they fluctuate very substantially during the period of calculation, action must be taken to maintain a properly representative price for the product in question. In the case of large fluctuations

in either the exchange quotation, the commercial premiums attached to the quotation, the sea freight costs or the rate of exchange used to calculate the representative cif import price of the product, the price used for calculation of the import duty should be kept representative by means of an adjustment corresponding to the deviation from it that these changes account for. Even where this type of adjustment is made, the timing of the next determination need not be affected.

(8) In the case of imports of flint maize, the exchange quotation used for calculation of the representative cif import price may not, either because of the particular quality of the goods or because their price includes a quality premium over the normal price, take account of the existence of such a premium over normal market terms. To take account of that quality premium over prices or quotations importers who show that they have used the goods to make high quality products justifying the existence of such a premium should be reimbursed, at a flat rate, part of the import duty paid.

(9) In order to ensure that importers respect the provisions of this Regulation security should be required from them additional to that pertaining to licences.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

[F1 Article 1

1 Notwithstanding the rates of import duty in the Common Customs Tariff, the import duty on products falling within CN codes 1001 11 00, 1001 19 00, ex 1001 91 20 (common wheat seed), ex 1001 99 00 (high-quality common wheat other than seed), 1002 10 00, 1002 90 00, 1005 10 90, 1005 90 00, 1007 10 90 and 1007 90 00 shall be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the conventional rate of duty as determined on the basis of the Combined Nomenclature.

2 For the purposes of calculating the import duty referred to in paragraph 1, representative cif import prices shall be established on a regular basis for the products referred to in that paragraph.

[F2 3 The Common Customs Tariff duty rates referred to in paragraph 1 shall be those applicable on the date referred to in Article 172(2) of Regulation (EU) No 952/2013 of the European Parliament and of the Council[(4)].**]]**

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) No 265/2014 of 14 March 2014 amending Regulation (EU) No 642/2010 on rules of application (cereal sector import duties) for Council Regulation (EC) No 1234/2007.

F2 Substituted by Commission Implementing Regulation (EU) 2017/1328 of 17 July 2017 amending Regulation (EU) No 642/2010 on rules of application (cereal sector import duties) for Council Regulation (EC) No 1234/2007.

Article 2

[F1 1 The import duty referred to in Article 1(1) shall be calculated daily by the Commission.

The intervention price to be used for the calculation of import duty shall be EUR 101,31 per tonne.

The import price to be used for the calculation of the import duty shall be the daily cif representative import price determined using the method provided for in Article 5 of this Regulation.

2 The import duty fixed by the Commission shall be equal to the average of the import duties calculated during the previous 10 working days.

The Commission shall fix the import duty if the average of the import duties calculated during the previous 10 working days differs by more than EUR 5 per tonne compared to the duty fixed or if the average is once again nil.

On the occasion of each fixing, the import duty and the factors used for their calculation shall be published in the *Official Journal of the European Union*[(5)].

The import duty fixed shall apply from the date of publication.

The import duty fixed under this Regulation shall apply until a new import duty is fixed and enters into force.**]**

[F3]3 . . . . . .

4 Where the port of unloading in the Union is located:

a on the Mediterranean (beyond the Strait of Gibraltar) or on the Black Sea and where the goods arrive via the Atlantic Ocean or the Suez Canal, the Commission shall reduce the import duty by EUR 3 per tonne;

b on the Atlantic coast of the Iberian Peninsula, in the United Kingdom, in Ireland, in Denmark, in Estonia, in Latvia, in Lithuania, in Poland, in Finland and in Sweden and where the goods arrive via the Atlantic Ocean, the Commission shall reduce the import duty by EUR 2 per tonne.

[[F2]The customs authority at the port of unloading shall issue a document in accordance with the model given in Annex I attesting the quantity of each product unloaded. For the duty reduction provided for in the first subparagraph to be granted, that document must accompany the goods until completion of the customs import formalities.**]**

[[F4]5 With regard to products originating in Canada and falling within CN codes 1001 11 00, 1001 19 00, ex 1001 99 00 (high quality common wheat other than seed), 1002 10 00 and 1002 90 00, the import duty shall be equal to a percentage of the duty fixed in accordance with paragraph 2 and, if appropriate, paragraph 4. The percentage to be applied is set out in Annex Ia. The import duty shall be rounded down at least to the nearest EUR 0,001.**]**

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) No 265/2014 of 14 March 2014 amending Regulation (EU) No 642/2010 on rules of application (cereal sector import duties) for Council Regulation (EC) No 1234/2007.

F2 Substituted by Commission Implementing Regulation (EU) 2017/1328 of 17 July 2017 amending Regulation (EU) No 642/2010 on rules of application (cereal sector import duties) for Council Regulation (EC) No 1234/2007.

F3 Deleted by Commission Implementing Regulation (EU) No 265/2014 of 14 March 2014 amending Regulation (EU) No 642/2010 on rules of application (cereal sector import duties) for Council Regulation (EC) No 1234/2007.

F4 Inserted by Commission Implementing Regulation (EU) 2017/1587 of 19 September 2017 amending Regulation (EU) No 642/2010 on rules of application (cereal sector import duties) for Council Regulation (EC) No 1234/2007.

Article 3

1 Import duties shall be reduced by EUR 24 per tonne on flint maize meeting the specifications laid down in Annex II.

2 In order to benefit from the reduction provided for in paragraph 1, flint maize must be processed into a product of CN codes 1904 10 10, 1103 13 or 1104 23 within six months from the date of acceptance of entry for free circulation.

[[F2]3 The end-use provisions of Article 254(1), (4) and (5) of Regulation (EU) No 952/2013 shall apply.

4 Notwithstanding Article 211(3)(c) of Regulation (EU) No 952/2013, for flint maize, the importer shall lodge with the competent authority a specific security of EUR 24 per tonne, except where the declaration of release for free circulation is accompanied by a certificate of conformity issued by the Argentine Servicio National de Sanidad y Calidad Agroalimentaria (Senasa) in accordance with point (a) of the first subparagraph of Article 7(2) of this Regulation.

If, however, the duty applicable on the date of the acceptance of the declaration of release for free circulation is less than EUR 24 per tonne of maize, the specific security shall be equal to the duty amount.**]**

Textual Amendments

F2 Substituted by Commission Implementing Regulation (EU) 2017/1328 of 17 July 2017 amending Regulation (EU) No 642/2010 on rules of application (cereal sector import duties) for Council Regulation (EC) No 1234/2007.

Article 4

The quality standards to be met on importation into the Union and the tolerances allowed shall be those shown in Annex II.

Article 5

[[F1]1 For high quality soft wheat and maize other than seed, as referred to in Article 1(1) of this Regulation, the components determining the representative cif import prices referred to in Article 1(2) shall be:

a the representative exchange quotation on the market of the United States of America;

b the known commercial premiums and discounts attached to that quotation in the United States of America market on the quotation day;

c sea freight and associated costs between the United States of America (Gulf of Mexico or Duluth) and the port of Rotterdam for a vessel of at least 25 000 tonnes.**]**

2 The Commission shall record each working day:

a the component referred to in paragraph 1(a) from the exchanges and using the reference qualities shown in Annex III;

b components referred to in points (b) and (c) of paragraph 1 from publicly available information.