

REGULATION (EEC) No 1059/69 OF THE COUNCIL

of 28 May 1969

laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 14 (7), 28, 92, 93, 94, 111 *et seq.*, 227 and 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament¹;

Whereas Regulation No 160/66/EEC² laid down the trade arrangements for certain goods resulting from the processing of agricultural products; whereas that Regulation provides in particular that, in place of the customs duties and charges having equivalent effect previously levied by Member States on imports of such goods, a charge must be levied consisting of a fixed component for the protection of the processing industry and a variable component to offset any difference between the prices of the relevant agricultural products in the importing Member State and in the exporting Member State or on the world market;

Whereas in accordance with Article 4 of Regulation No 160/66/EEC the fixed component was abolished on 1 July 1967 for intra-Community trade; whereas in accordance with Article 11 (2) of that Regulation the fixed component in respect of imports from third countries is the same for all Member States;

Whereas all the basic products within the meaning of Regulation No 160/66/EEC are hereafter subject to a single price system in the Community; whereas the provisions of that Regulation concerning the levying of a variable component on imports and the granting of an export refund are consequently no longer relevant to intra-Community trade;

Whereas, moreover, the import charge on goods from third countries is now identical for all Member States;

Whereas the provisions of Regulation No 160/66/EEC have been amended several times; whereas, since it is necessary to amend them again for the establishment of a single price system for each basic product, the time has come for a restatement of the regulations in this field;

Whereas, in accordance with Article 3 (1) of Council Regulation (EEC) No 97/69³ of 16 January 1969 on measures to be taken for uniform application of the nomenclature of the Common Customs Tariff, the provisions required for applying the nomenclature of the Common Customs Tariff to the classification of goods are adopted in accordance with the procedure laid down in Article 3 (2) and (3) of that Regulation; whereas methods of qualitative and quantitative analysis of goods and other technical provisions necessary for classifying goods to which the trade arrangements in question apply can therefore be adopted in accordance with that procedure;

Whereas, in accordance with Article 11 (1) of Council Regulation (EEC) No 804/68⁴ of 27 June 1968 on the common organisation of the market in milk and milk products, aid is granted for skimmed milk produced within the Community and processed into casein if such milk and the casein manufactured from it satisfy certain conditions laid down in Article 1 of Council Regulation (EEC) No 987/68⁵ of 15 July 1968 laying down general rules for granting aid for skimmed milk processed into casein or caseinates; whereas it is a prerequisite for the application of the trade arrangements to those goods that the effect of the system of aid thus introduced should first be assessed; whereas, therefore, the application of this Regulation to goods falling within sub-headings Nos 35.01 A and 35.01 C of the Common Customs Tariff should be deferred;

¹ OJ No C 63, 28.5.1969, p. 31.

² OJ No 195, 28.10.1966, p. 3361/66.

³ OJ No L 14, 21.1.1969, p. 1.

⁴ OJ No L 148, 28.6.1968, p. 13.

⁵ OJ No L 169, 18.7.1968, p. 6.

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

1. This Regulation determines the trade arrangements applicable to certain goods not covered by Annex II to the Treaty:

- (a) in the manufacture of which one or more of the basic products listed in Article 2 have been used, either unprocessed or after processing; or
- (b) which, in accordance with Article 3, are considered to be manufactured from products referred to under (a).

2. The goods referred to in paragraph 1 (hereinafter called 'goods') are listed in the Annex to this Regulation.

Article 2

The following shall be considered to be basic products:

CCT heading No	Description of the basic products
Chapter 10	Cereals
04.02	Milk and cream, preserved, concentrated or sweetened
04.03	Butter
17.01	Beet sugar and cane sugar, solid
17.03	Molasses, whether or not decolourised

Article 3

For the purposes of this Regulation:

- (a) goods made from potato starch, from the starches of roots and tubers falling within heading No 07.06 (heading No 11.08) and from flour and meal falling within heading No 11.06 of the Common Customs Tariff shall be considered to be manufactured from maize;
- (b) goods made from fresh milk, not concentrated or sweetened having a milkfat content not exceeding 0.1 per cent, shall be considered to be made from milk powder complying with the definition of the Group 2 pilot product contained in Annex I to

Council Regulation (EEC) No 823/68¹ of 28 June 1968 determining the groups of products and the special provisions for calculating levies on milk and milk products, as last amended by Regulation (EEC) No 145/69²;

- (c) goods made from milk or cream, fresh, not concentrated or sweetened, having a milkfat content exceeding 0.1%, shall be considered to be made from milk powder complying with the definition of the Group 3 pilot product contained in Annex I to Regulation (EEC) No 823/68.

Article 4

The Council, acting by a qualified majority on a proposal from the Commission, shall determine in respect of all goods:

- (a) the type and characteristics of the basic products to be used when calculating the variable component referred to in Article 5,
- (b) the quantity of each of these basic products considered to have been used in their manufacture,

account being taken of the Common Customs Tariff classification and any changes which may be made in accordance with the relevant rules in the Treaty.

2. Methods of qualitative and quantitative analysis of the goods, and other technical provisions necessary for identifying them or for determining their composition, shall be adopted in accordance with the procedure laid down in Article 3 (2) and (3) of Regulation (EEC) No 97/69.

TITLE II

SYSTEM OF TRADE

Article 5

1. On importation into the Community, all goods shall be subject to the relevant charge in the Common Customs Tariff consisting of:

- (a) an *ad valorem* duty, which is the fixed component;
- (b) a variable component.

The variable component shall be determined in accordance with Articles 6 and 7 and is intended to reflect, for the quantities of basic products considered to have been used in the manufacture of the goods,

¹ OJ No L 151, 30.6.1968, p. 3.

² OJ No L 21, 28.1.1969, p. 1.

the difference between the prices of those products in the Community and the prices of imports of those products from third countries, when the total cost of those quantities of basic products is higher in the Community.

2. Subject to Article 14 (3) and (4), the levying of any customs duty or charge having equivalent effect other than the charge provided for in paragraph 1 shall be prohibited.

Article 6

1. The Commission shall fix the amount of the variable component for all goods for each quarter of the calendar year.

2. The variable component shall be calculated on the basis of the difference, for the quantity of each basic product to be taken into consideration, between:

- (a) the average threshold price for each of the three months of the quarter for which the variable component is fixed; and
- (b) the average c.i.f. price (excluding special c.i.f. prices) or the free-at-frontier price used when fixing the levies on each of the basic products in question, calculated for a period consisting of the first fifteen days of the month preceding the quarter for which the variable component is fixed and the two months immediately preceding.

3. When, pursuant to the regulations on the common organisation of markets, a production refund or aid is applicable in all Member States to basic products or assimilated products within the meaning of Article 3, the amount of the variable component shall be calculated on the basis of the price resulting from the application of these measures instead of the average threshold price referred to in paragraph 2 (a).

The Council, acting by a qualified majority on a proposal from the Commission, shall determine which goods are subject to the provisions of the preceding subparagraph.

4. The amount of the variable component applicable to goods obtained by processing several basic products shall be the total incidence of the price differences recorded for each of the basic products in accordance with the rules laid down in paragraphs 2 and 3.

5. The variable component shall be fixed at zero when the amount thereof is less than 0.25 units of account per 100 kilogrammes of goods.

Article 7

1. If one of the factors to be used for calculating the variable component has not been determined by the fifteenth of the month preceding the quarter for which this variable component must be fixed, the Commission shall calculate the variable component on the basis of the factor used for calculating the variable component for the current quarter instead of the factor which is not available.

2. A corrected variable component shall be fixed by the Commission and shall become applicable not later than the sixteenth day following the date on which the factor which was not available is determined.

However, if this factor is determined during the last month of the quarter under consideration, no corrected variable component shall be fixed.

Article 8

1. Where the Common Customs Tariff lays down a maximum rate of duty, the charge provided for in Article 5 may not exceed this maximum.

Where the maximum rate of duty referred to in the preceding subparagraph may be charged only under specific conditions, these conditions shall be determined in accordance with the procedure laid down in Article 3 (2) and (3) of Regulation (EEC) No 97/69.

2. Where the maximum rate of duty referred to in paragraph 1 includes an additional duty on various kinds of sugar, expressed as sucrose (ads), or on flour (adf), such additional duty shall be calculated on the basis of:

- (a) the difference between the average threshold price and the average c.i.f. price (excluding special c.i.f. prices) for white sugar or cereal flour calculated in accordance with the same rules as those laid down in Article 6 (2);
- (b) the quantity of white sugar or the quantity of flour corresponding to the quantity of cereals fixed pursuant to Article 4 (1) for the goods in question.

3. However, at the request of the importer and by way of derogation from paragraph 2 (b), the additional duty shall be calculated on the basis of the quantity of sugar (expressed as sucrose) or of the quantity of cereal flour which the goods in question actually contain. To that end, the importer shall declare these quantities to the competent authorities.

4. Each quarter the Commission shall determine:

- (a) the amount of the additional duties, calculated in accordance with paragraph 2;
- (b) the price differences referred to in paragraph 2 (a).

5. For the purposes of paragraphs 2, 3 and 4, 100 kilogrammes of rye flour shall be considered to be equivalent to 63.4 kilogrammes of cereal starch or 102 kilogrammes of rye, and 100 kilogrammes of flour of other cereals to be equivalent to 63.6 kilogrammes of cereal starch or 140 kilogrammes of those cereals.

Article 9

1. The amount of the refund on agricultural products covered by the regulations on the common organisation of markets, and exported in the form of goods, shall be fixed in accordance with those regulations.

2. The quantity of agricultural products covered by the regulations on the common organisation of markets which Member States do not make subject to levies or charges having an effect equivalent to customs duties, for the purpose of or as a result of exporting such goods, shall be determined in accordance with those regulations.

3. The quantity of goods which Member States do not make subject to the charge provided for in Article 5, for the purpose of or as a result of exporting other goods, shall be that actually used in the manufacture of the latter.

TITLE III

FINAL PROVISIONS

Article 10

1. The following shall be prohibited in the internal trade of the Community:

- subject to Article 14 (3) and (4), the levying of any charge having an effect equivalent to a customs duty;
- any measure having an effect equivalent to a quantitative restriction.

2. Goods manufactured or obtained from products which do not fall within either of the categories mentioned in Article 9 (2) of the Treaty shall not be admitted to free circulation within the Community.

Article 11

Member States shall communicate to the Commission the information necessary for implementing this Regulation as regards importation, exportation and the production of goods. The procedure for the communication of this information shall be fixed by the Commission after consulting Member States.

Article 12

The Council, acting unanimously on a proposal from the Commission, may adopt special provisions governing trade in goods between Member States and certain States, countries and territories, under a special system.

Article 13

This Regulation shall be applicable in the French overseas departments.

Article 14

1. The Council, acting by a qualified majority on a proposal from the Commission, may take measures in respect of any goods to bring the provisions of this Regulation into line with any technical amendments which may be made to the relevant regulations on agricultural products.

2. Where, during any quarter, a threshold price is altered or a production refund or aid is introduced, amended or abolished, the Council, acting by a qualified majority on a proposal from the Commission, may decide whether to correct the variable component and shall adopt the measures necessary to that end.

3. The Council, acting by a qualified majority on a proposal from the Commission, may take appropriate measures to deal with the possible effect on trade between Member States and with third countries of special measures which may be adopted under the common organisation of agricultural markets as regards the prices of certain basic products.

The provisions of the preceding subparagraph shall not apply to increases in the production refund granted to Italy in accordance with the second subparagraph of Article 1 (1) of Council Regulation No 371/67/CEE¹ of 25 July 1967 fixing production refunds on starches and quellmehl.

¹ OJ No 174, 31.7.1967, p. 40.

4. The Council, acting unanimously on a proposal from the Commission, may take appropriate measures to deal with a special situation which may arise in respect of certain goods.

The period of validity of these provisions shall not, however, exceed six months.

Article 15

Goods released from a bonded warehouse shall be subject to the duty applicable at the time of leaving the warehouse.

Article 16

1. From 1 July 1969, Regulation No 160/66/EEC and the provisions adopted pursuant thereto shall be repealed with the exception of those of Council Regulation No 127/67/EEC¹ of 13 June 1967 laying down special provisions for goods covered by Regulation No 160/66/EEC which are imported into Member States from the Associated African States and Madagascar or from the Overseas Countries and Territories, as amended by Regulation No 988/69².

2. In all Community instruments where reference is made to Regulation No 160/66/EEC or to any Articles of that Regulation, the reference shall be considered to be made to this Regulation or to the corresponding Articles of this Regulation.

Article 17

1. This Regulation shall enter into force on 15 June 1969.

2. The arrangements laid down by this Regulation shall be applicable from 1 July 1969. However, its application to caseins falling within sub-heading No 35.01 A of the Common Customs Tariff and to caseinates and other casein derivatives falling within sub-heading No 35.01 C of the Common Customs Tariff shall be deferred until 1 January 1970.

Done at Brussels, 28 May 1969.

For the Council

The President

G. THORN

¹ OJ No 119, 20.6.1967, p. 2341/67.

² OJ No L 130, 31.5.1969, p. 1.

ANNEX

CCT heading Nc	Description of goods
ex 17.04	Sugar confectionery, not containing cocoa, except liquorice extracts containing more than 10% by weight of sugar but not containing other added substances
18.06	Chocolate and other food preparations containing cocoa
19.01	Malt extract
19.02	Preparations of flour, starch or malt extract, of a kind used as infant food or for dietetic or culinary purposes containing less than 50% by weight of cocoa
19.03	Macaroni, spaghetti and similar products
19.04	Tapioca and sago; tapioca and sago substitutes obtained from potato or other starches
19.05	Prepared foods obtained by the swelling or roasting of cereals or cereal products (puffed rice, corn flakes and similar products)
19.06	Communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products
19.07	Bread, ships' biscuits and other ordinary bakers' wares, not containing sugar, honey, eggs, fats, cheese or fruit
19.08	Pastry, biscuits, cakes and other fine bakers' wares, whether or not containing cocoa in any proportion
ex 21.01	Roasted coffee substitutes, and extracts, essences and concentrates thereof other than roasted chicory and extracts, essences and concentrates thereof
ex 21.05	Bakers' yeast
ex 21.07	Food preparations not elsewhere specified or included containing sugar, milk products, cereals or products based on cereals
ex 22.02	Lemonade, flavoured spa waters and flavoured aerated waters, and other non-alcoholic beverages, not including fruit and vegetable juices falling within heading No 20.07 — containing milk or milkfats
ex 29.04	Mannitol, sorbitol
ex 35.01	Casein, caseinates and other casein derivatives
35.05	Dextrins and dextrin glues; soluble or roasted starches, starch glues
ex 38.12	Prepared glazings and prepared dressings with a basis of amylaceous substances