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REPORT

on the proposal for a Council regulation amending Regulation (EC)
No 1766/92 with regard to the calculation of import duties on certain cereals
(COM(2002) 732 – C5-0028/2003 – 2002/0292(CNS))

Committee on Agriculture and Rural Development

Rapporteur: Dominique F. C. Souchet

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 7 February 2003 the Council consulted Parliament, pursuant to Article 37 of the EC Treaty, on the proposal for a Council regulation amending Regulation (EC) No 1766/92 with regard to the calculation of import duties on certain cereals (COM(2002) 732 – 2002/0292(CNS)).

At the sitting of 10 February 2003, the President of Parliament announced that he had referred the proposal to the Committee on Agriculture and Rural Development as the committee responsible and the Committee on Budgets and Committee on Industry, External Trade, Research and Energy for their opinions (C5-0028/2003).

The Committee on Agriculture and Rural Development had appointed Dominique F. C. Souchet rapporteur at its meeting of 23 January 2003.

The committee considered the Commission proposal and draft report at its meetings of 18 March 2003 and 19 March 2003.

At the latter meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Joseph Daul, chairman; Friedrich-Wilhelm Graefe zu Baringdorf, Albert Jan Maat and María Rodríguez Ramos, vice-chairmen; Dominique F.C. Souchet, rapporteur; Gordon J. Adam, Danielle Auroi, Carlos Bautista Ojeda, Arlindo Cunha, Christel Fiebiger, Francesco Fiori, Christos Folias, Jean-Claude Fruteau, Georges Garot, Lutz Goepel, Willi Görlach, María Esther Herranz García (for Encarnación Redondo Jiménez), Salvador Jové Peres, Heinz Kindermann, Dimitrios Koulourianos, Wolfgang Kreissl-Dörfler (for António Campos), Astrid Lulling (for Agnes Schierhuber), Véronique Mathieu, Hans-Peter Mayer (for Michl Ebner), Xaver Mayer, Karl Erik Olsson and Christa Prets (for María Izquierdo Rojo).

The Committee on Budgets and the Committee on Industry, External Trade, Research and Energy decided on 21 January 2003 and 20 February 2003 respectively not to deliver opinions.

The report was tabled on 19 March 2003.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council regulation amending Regulation (EC) No 1766/92 with regard to the calculation of import duties on certain cereals
(COM(2002) 732 – C5-0028/2003 – 2002/0292(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2002) 732)¹,
 - having regard to Article 37 of the EC Treaty, pursuant to which the Council consulted Parliament (C5-0028/2003),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Agriculture and Rural Development (A5-0070/2003),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission	Amendments by Parliament
Amendment 1 ARTICLE 1 Article 10, paragraph 2 (Regulation (EC) No 1766/92)	
2. Notwithstanding paragraph 1, the import duty on products covered by CN codes 1001 90 91, ex 1001 90 99, 1002, ex 1005 other than hybrid seed, and ex 1007 other than hybrid for sowing, shall be equal to the intervention price valid for such	2. Notwithstanding paragraph 1, the import duty on products covered by CN codes 1001 90 91 (Common wheat seed), ex 1001 90 99 (High quality common wheat), 1001 1000 (Durum wheat) , 1002 (Rye), ex 1005 (Maize) other than hybrid seed, and

¹ Not yet published in OJ.

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 rate of duty in the Common Customs Tariff.

ex 1007 (***Sorghum***) other than hybrid for sowing, 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 rate of duty in the Common Customs Tariff.

EXPLANATORY STATEMENT

The European Union produces a surplus of cereals; over the period 1997 to 2001 production was 203 million tonnes (MT), with consumption at 182 MT, imports of 7 MT and exports of 26 MT. For common wheat in particular, imports were 2.1 MT and exports 9.1 MT over the same period. On average the EU exports between 10 and 15% of its cereal production, whereas the United States exports 50% and Canada and Australia around two-thirds.

Community preference is one of the fundamental principles governing the single agricultural market; it was established in 1962 and re-stated in Declaration No 14 annexed to the Treaty establishing the European Union; the European Commission defines it as follows:

'Community preference: this means that EU agricultural products are given preference and a price advantage over imported products; also, the protection of the internal market from products imported from third countries at low prices and from considerable fluctuations in the world market'.

After several bad years, Russia and the Ukraine recorded substantial cereal harvests in 2001, and again in 2002. Wholesalers from these countries then took advantage of shortcomings in the European customs system to export cereals to the EU in vast quantities at extremely low prices. This was possible because, under the Marrakesh agreements, import duties were calculated every fortnight on the basis of the difference between the world reference price and 155% of the intervention price; the Commission had opted to take the price quoted on the Chicago commodity exchange for US wheat plus the transatlantic cif costs as the world reference price; however, during these marketing years, the reference price calculated in this way was permanently around the 155% ceiling, allowing wheat from the Black Sea region to enter the EU duty-free or at very low rates of duty, resulting in a total price (FOB plus freight plus import duties) much lower than the price of Community wheat. Over the past two marketing years, FOB Gulf of Mexico offer prices (derived from the Chicago exchange) were €40/T higher on average than prices for FOB Black Sea.

Offer prices for Black Sea wheat are not consistent with sustainable production: farmers do not have sufficient storage capacity, and organisations buying up wheat come to agreements among themselves over their market radius; the prices at which they buy wheat in from producers (€40 to €60/T), even taking account of the very low property taxes and social costs, cannot equate with the cost of production ensuring sustainable, socially responsible and environmentally-friendly farming.

On 11 October 2001 the Commission unilaterally decided to abolish an additional tax of €10/T on imports from the Black Sea region, claiming that this measure was justified on market management grounds. However, although it is true that the Community harvest was 10 MT lower than normal, it was still significantly higher than domestic consumption! One wonders how such a decision could have been taken as it went against the interests of the Union, the Community budget, and above all sound management and the protection of the Community market.

The combination of these two factors resulted in a vast wave of wheat imports from Russia and the Ukraine entering the Community market duty-free or at very low rates of duty, despite the fact that the Community market was in surplus. To tackle this imbalance, the Commission, which is responsible for management of the market, had two measures at its disposal which

could have come into effect immediately:

Firstly, noting that the price quoted on the Chicago exchange was no longer a reference for transactions in the Mediterranean area, the Commission should have abandoned this theoretical rate for calculating the reference price used to determine import duties and opted for a rate that was more closely related to the actual situation.

The second option, which could have been used in conjunction with the first, would have been to introduce the necessary safeguard measures authorised either under the WTO safeguard clause, or by Article 5 of the Marrakesh agreement on agriculture, or by the bilateral agreements with Ukraine and Russia. These regulations authorised safeguard measures to be taken in the event of a risk of serious disruption of the Community market, which was clearly the case.

It is difficult to understand why the Commission, which as guardian of the Treaties has a duty to enforce Community preference, failed to introduce either of these two measures.

Consequently, during the 2001/2002 marketing year there was a paradoxical situation in which the EU, which had a surplus of tens of millions of tonnes of common wheat, became the world's leading importer with 7.8 MT! The argument sometimes put forward to justify the Commission's failure to take action is that it wanted to prevent prices from rocketing in order to protect consumers; this argument does not hold water as the EU had a surplus even in this marketing year when the harvest was poor and the Commission had intervention stocks of wheat, and barley in particular, that it could have used; it would therefore have been possible to achieve equilibrium at a satisfactory price level; instead of that, this bad market management resulted in prices collapsing in the Community to unprecedented levels (€90/T in May and June 2002, ex-producer)

In mid-July 2002, when there were signs of a slightly higher than average Community harvest, the Commission decided to react; however, instead of opting for the two measures described above, it chose the longer and more hazardous route of renegotiating its cereals customs regime in the WTO, in order to establish import quotas (deconsolidation); these negotiations ended with the agreements concluded on 11 November 2002, ratified by the Council on 19 December 2002, and which entered into force on 1 January 2003.

In the meantime, the wave of imports of Russian and Ukrainian wheat increased rapidly with merchants trying to achieve as many deals as possible before the quotas came into force; thus, in the second half of 2002 alone, the Commission authorised imports of 9.4 MT of wheat which severely depressed domestic prices.

The agreements do not entail any change for imports of high-quality common wheat, durum wheat or maize. In the case of common wheat of medium or low quality, i.e. the kind of wheat involved in most of the transactions, an import quota of 2 981 600 T has been established with a reduced rate of customs duty of €12/T, any amount imported outside that quota will be subject to a duty of €95/T; country allocations of 35 000 and 572 000 T respectively are reserved for Canada and the United States.

In the case of malting barley, a quota of 50 000 T has been established with a duty of €8/T. For other varieties of barley, there is a quota of 300 000 with a duty of €16; in both cases the

duty is €93/T outside the quota. The various quotas are annual and divisible quarterly.

In conclusion, your rapporteur proposes that the amendment to Regulation (EEC) No 1766/90 should be approved as a whole, as far as the calculation of import duties on these cereals is concerned. However, it should be pointed out that:

- the system of tariff quotas established provides very effective protection of the Community market outside the quota, but continues to allow a flow of imports of wheat and barley for which there is no *raison d'être* given that the Community market already has a structural surplus;
- this system is less stable than the previous system in that the import quotas allocated to each country are likely to come under strong pressure to be renegotiated upwards whenever there is a below-average Community harvest; the Commission will have to be very vigilant on this point and make sure that sub-quotas are not granted to non-member countries except in exchange for substantial advantages.
- the annual quota should have been based on the marketing year rather than the calendar year, so as to make it easier to manage the current marketing year when prices are substantially affected by the massive imports during the first half of the year; this means that the market will have to absorb 1.5 MT more at reduced duty rates during the second half of the year when it is already glutted.
- it is inept to have put high-quality wheat and low and medium quality wheat in different systems as this is bound to create a powerful incentive for fraud; the Commission should therefore draw up clear definitions of these categories and introduce more stringent checks.
- the forthcoming enlargement of the EU to include six countries of Central Europe which have borders with Ukraine or Russia will create further risks of fraudulent imports; Commission should therefore ensure that here too effective checks are introduced.

We should take the opportunity of this amendment to the regulation to point out forcefully to the Commission that:

- as guardian of the Treaties, it must strictly enforce the application of Community preference for agricultural markets;
- as the body responsible for market management, it has a duty to manage the market in the interests of European operators and therefore to secure a fair price on domestic markets by using the management instruments available to it; in particular it is perfectly normal that the prices paid to producers should be higher in years when the volume harvested is lower;
- as the body representing the Union's interests in international trade negotiations, it should not grant trade advantages to non-member countries unless they have been properly negotiated and are in exchange for other benefits to the EU.