

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(83) 201 final

Brussels, 19 April 1983

Amended Proposal for a

COUNCIL DIRECTIVE

amending Commission Directive 75/349/EEC regarding detailed
rules on equivalent compensation and prior exportation
under the inward processing arrangements

(submitted to the Council by the Commission pursuant to the
second paragraph of Article 149 of the EEC Treaty)

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EXPLANATORY MEMORANDUM

COM 201

1. On 4 February 1983 the Commission submitted (1) to the Council a proposal for a Directive amending Commission Directive 75/349/EEC regarding the rules for the application of equivalent compensation and for prior exportation under the framework of the inward processing relief arrangements (2).

As the Commission has stressed in this proposal, the system of equivalent compensation constitutes an exception to the general rule of reexportation, in the form of compensating products of goods imported from third countries under the inward processing arrangements. Because of this, the provisions relating to this system must receive a strict interpretation.

This proposal was submitted to the Committee for Customs Processing Arrangements in conformity with the procedure provided for in Article 28 of Council Directive 69/73/EEC of 4 March 1969 (3) and more exactly under the framework of the second stage of this procedure, the Committee not having given an opinion on the proposal which the representative of the Commission had submitted because of the absence of a qualified majority.

2. Taking account of the arguments advanced in the course of the examination of the said proposal by the Council bodies, the Commission considers it appropriate to introduce into the proposal submitted on 4 February 1983 certain non-substantial changes in order to permit the Council to act within the time limit provided for in Article 28, paragraph 3, subparagraph c) of Directive 69/73/EEC or for the Commission to start the third stage of the procedure in question taking account of the changes proposed.

This is the object of the amended proposal for a Directive attached herewith.

(1) Doc. SG(83)D/1757 of 8.2.1983 - COM(83)41 final

(2) OJ No. L 156 of 18.6.1975, p. 25

(3) OJ No. L 58 of 8.3.1969, p. 1

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amending Commission Directive 75/349/CEE regarding detailed rules on
equivalent compensation and prior exportation under the inward processing
arrangements

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic
Community,

Having regard to Council Directive 69/73/EEC of 4 March 1969 on the
harmonization of provisions laid down by law, regulation or
administrative action in respect of inward processing (1), as last
amended by the Act of Accession of Greece, and in particular Articles
24 and 28 thereof;

Having regard to the proposal from the Commission;

Whereas in accordance with the provisions of Article 24 of Directive
69/73/EEC the competent authorities may, by virtue of an exception
with regard to the principle of compensation for identical goods,
when the circumstances so justify, consider as compensating products
those products resulting from the processing of goods of the same
quality and having the same technical characteristics as those of
the imported goods;

Whereas Directive 75/349/EEC (2) has laid down certain provisions
necessary for the application of Articles 24 and 25 of Directive
69/73/EEC and under these provisions the compensation goods must fall
within the same tariff subheading, be of the same commercial quality
and possess the same technical characteristics as the import goods;

Whereas reliable and uniform application in the Community of Articles 24
and 25 of Directive 69/73/EEC would be ensured by fixing, at Community
level, criteria allowing the competent authorities to establish with
sufficient security the identity of the commercial quality and of the
technical characteristics between compensating products and imported
goods;

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(1) OJ n° L 58 of 8 March 1969, p. 1

(2) OJ n° L 156 of 18 June 1975, p. 25

Whereas the commercial quality and technical characteristics of different varieties of common wheats are determined by different factors and notably by the specific weight of the grains, their humidity, their colour, their physical structure and their chemical composition, their percentage of germ, gluten, ash and proteins and the percentage of impurities which they contain; whereas these factors exert a decisive influence on commercial transactions concerning common wheats, as well as on the treatments to which they must be submitted before milling; whereas because of this fact, every quantity of common wheat is traded, stocked and used separately and account is taken of characteristics appropriate to each quality in order to obtain the product required;

Whereas the values of the aforementioned factors are extremely variable from one common wheat to another; whereas these variations are of an incontestable importance for the correct and uniform application of the equivalent compensation system which is provided for by Directives 69/73/CEE and 75/349/CEE for the goods in question;

Whereas in order to allow the equivalent compensation system to operate as between two common wheats, where the circumstances so justify, the competent authorities may not base this only on the identify of the tariff sub-heading of the wheats in question but must of necessity take account of the variations of the factors specified above;

Whereas by reasons of the multiplicity, diversity and variability of the said factors, there no longer exist the means to conclude from the identity of the commercial quality and technical characteristics of common wheats criteria permitting the reliable and uniform application of the provisions of Directives 69/73/EEC and 75/349/EEC regarding equivalent compensation; whereas experience no longer allows, at the present time, determination of whether these criteria may be reached; whereas as a stronger reason, it is no longer possible to change, on a Community level, similar criteria into legal rules;

Whereas under these conditions, the competent authorities could not authorize equivalent compensation for the common wheats in question, taking account only of the identify of the tariff sub-heading and not appreciating the identity of the commercial quality and of the technical characteristics; whereas even to the extent that such an appreciation was made on the basis of laboratory analyses, the results of such analyses were not of a nature guaranting the uniform application of the provisions in question;

Whereas it is therefore the occasion to examine in some detail the applicability of the equivalent compensation system between common wheats harvested in the Community and common wheats harvested in third countries in order to research the possibilities of enacting, at Community level, rules permitting the reliable and uniform application of this system;

Whereas common wheats harvested in a country originate in that country in conformity with the common definition of the notion of origin of goods;

Whereas the situation described above arises equally in respect of durum wheats;

Whereas it is advisable at this time to specify that the common wheats and durum wheats originating in the Community may not, in the present circumstances, be considered as compensation goods in the sense of Article 2, paragraph 1, first indent of Directive 75/349/EEC;

Whereas in the absence of an opinion from the Committee on Customs Processing Arrangements the Commission has been unable to adopt the provisions envisaged on this subject pursuant to the procedure laid down in Article 28(3)(a) of Directive 69/73/EEC,

HAS ADOPTED THIS DIRECTIVE :

Article 1

The following paragraph is hereby added to Article 2 of Directive 75/349/EEC :

2. Until the adoption of new provisions, the common wheats proper to sub-heading 10.01 B I of the Common Customs Tariff originating in the Community, as well as durum wheats proper to sub-heading 10.01 B II of the Common Customs Tariff originating in the Community may not be considered, in the sense of paragraph 2, first sub-paragraph, as compensation goods of wheat proper to the same sub-headings of the CCT and originating in third countries.

Article 2

Member States shall lay down the measures necessary to comply with this Directive not later than 1 June 1983.

The Member States shall immediately notify the Commission of the provisions it make for implementing this Directive.

The Commission shall communicate the information to the other Member States.

Article 3

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President

