

MVO Regulation Administrative Levies 2009

Regulation of the Product Board for Margarine, Fats and Oils of 27th November 2008, bearing rules concerning the levy which has to be imposed upon the entrepreneurs coming under the competence of the Product Board for Margarine, Fats and Oils for the year 2009 (MVO Regulation Administrative Levies 2009).

The board of the Product Board for Margarine, Fats and Oils;
Considering the articles 95 and 126, first paragraph of the Industrial Organization Law and the articles 3 and 7, first paragraph of the Institution Decision for the Product Board for Margarine, Fats and Oils;

Decides:

§ 1 Definitions

Article 1

In this regulation is meant under:

- | | | |
|----------------------|---|--|
| a. product board | : | Product Board for Margarine, Fats and Oils |
| b. chairman | : | chairman of the product board |
| c. secretary-general | : | secretary-general of the product board |
| d. entrepreneur | : | every person and every corporate body conducting a business for which the product board has been installed |

§ 2 Levies

Article 2

1. Each entrepreneur importing a product as mentioned in the annex to the MVO Regulation Providing data intra and extra community trade 2004, is indebted to the product board as a contribution to its household expenses a levy of € 0.35 per 1,000 kg of the imported product.

2. In contravention of what is stipulated in the first paragraph for the products mentioned hereafter a levy is due as indicated behind the product concerned:

- | | | | |
|----|---|---|---------------------|
| a. | Soybeans | : | € 0.07 per 1,000 kg |
| b. | Other oilseeds, oil fruits and meals thereof, out of which the oil has not been separated, with the exception of consumer groundnuts, cocoa beans and olives prepared for immediate human consumption | : | € 0.13 per 1,000 kg |

- c. Spreadable fat products, mayonnaise and similar sauces
with a fat percentage of less than 60 : € 0.13 per 1,000 kg
with a fat percentage of 60 or higher : € 0.26 per 1,000 kg

3. The levy meant in the second paragraph is not due in relation to quantities imported of the products mentioned under a and b, in so far to the satisfaction of the product board can be shown, that they have been delivered to a processor as meant in article 3, first paragraph, for the purpose of being processed in his company.

Article 3

1. The processor is, for the production of crude oils and fats other than cocoa butter and bleaching earth extraction fat or oil, due a levy to the product board of € 0.35 per 1,000 kg of produced vegetable oil.

2. The animal fat producer or renderer is, for the rendering or otherwise producing animal fat out of crude animal fat, pork or bones, due a levy to the product board of € 0.35 per 1,000 kg produced animal fat.

§ 3 Levy payment

Article 4

The product board may decide to join accounts of less than € 50 into compile accounts which refer to multiple periods.

Article 5

Levies have to be settled within 14 days after the accounts have been written out.

Article 6

1. If the entrepreneur did not, not in time or to the chairman's opinion not completely provide the data necessary for the imposition of this levy, as stipulated in the MVO Regulation General conditions 2004 or the MVO Regulation Providing data intra and extra community trade 2004, the chairman may fix the levy due for the period concerned by virtue of his office by means of assessment.

2. This assessment does not discharge the entrepreneur from his obligations as stipulated in the MVO Regulation General conditions 2004 or the MVO Regulation Providing data intra and extra community trade 2004.

3. If the entrepreneur as yet provides the requested data within 21 days after reception of the assessment as meant in the first paragraph, the meant assessment will be revoked and a new levy will be fixed based on the data provided by the entrepreneur.

Article 7

The product board may charge legal interest to the entrepreneur who has not or not completely settled his levy within the term mentioned in article 5, for the amount which has not been paid, calculating as from the day on which the payment should have been carried out at latest, following the dunning letter as stipulated in article 127, second paragraph, of the Industrial Organization Law.

Article 8

1. The entrepreneur submits, if requested by the chairman, an accountant's statement, in which the total amount of products imported, processed or rendered over a specified period can be found.

2. The entrepreneur has the obligation to fully cooperate with the controlling of the submission meant in the first paragraph by or on behalf of the product board.

§ 4 Final conditions

Article 9

This regulation enters into force on 1st January 2009. If the Regulation Magazine for Industrial Organization in which this regulation is placed is published after 31st December 2008, it enters into force one day after the date of its publication in the Regulation Magazine for Industrial Organization in which it has been placed and is retroactively valid as from 1st January 2009.

Article 10

The MVO Regulation administrative levies 2008 is revoked as from 1 January 2009, except for the obligations based upon this regulation to provide data and to pay levies.

Article 11

This regulation will be referred to as: MVO Regulation administrative levies 2009.

Rijswijk, 27th November 2008

W. Oosterhuis, chairman

F.A.G.M. Claassen, secretary-general

The goals which are pursued

The product board has been installed (article 3 of the Institution Decision for the Product Board for Margarine, Fats and Oils) for enterprises where:

- a. Fats or oils are prepared or processed;
- b. Fats or oils are processed into products which may serve as food for humans, eventually after further preparation or processing;
- c. Trade is carried out in:
 1. copra or oilseeds or oilseeds cultivated abroad, with the exception of consumer groundnuts and cocoa beans;
 2. fats or oils, with the exception of crude (non melted) animal fat, or products derived thereof, which may serve as human food, eventually after further preparation or processing.

The Dutch oils and fats sector is one of Europe's largest oils and fats sectors and has a strong international orientation. Companies in the margarine, fats and oils sector sometimes show highly differing activities. One may find animal fat producers and renderers, but also oilseed crushers, refiners and importers of crude and processed vegetable and animal fats or oils, importers and bottlers of olive oil and producers of margarine, mayonnaise and salad dressings. Sometimes you will find vertical integration, like oilseed crushing and oil refining, other times you can see horizontal diversification, like for example the producing of margarines, light margarines, mayonnaises, salad dressings and other products.

The Industrial Organization Law stipulates that a product board must take care of the interests of the companies for which the product board has been created as well as the interests of the employees working in these companies, while at the same time promoting a business conduct which is in the general interest. The Product Board MVO translates this for the oils and fats sector in such a way as to assume the role of initiator, stimulator, coordinator, service provider and source of information in matters involving the entire production chain and surpassing the capacity and reach of the – small and 'horizontally' oriented – branch organizations.

Research projects are initiated, workshops organized, newsletters published, databanks installed, stakeholders brought together, questions answered, national and international contacts upheld, cooperation agreements concluded, all on behalf of an economically viable sector capable of taking on new societal challenges and facing up to international competition.

The product board distinguishes the following core business tasks:

- reinforcement of food quality and safety in the entire production and distribution chain;
- stimulating corporate social responsibility;
- promoting sustainable developments;
- providing product information;
- stimulation of product and process innovation;
- stimulation of free trade;
- procuring companies with relevant market information;
- procuring information on policy and legal developments.

The product board finances its yearly expenses by imposing a levy upon the imports of oilseeds, oils and fats and fat or oil containing products, or upon the production of crude oils and fats.

Further motivation on the need for public ruling i.c. this regulation

The Industrial Organization Law offers a basis to the product board for properly carrying out its tasks and to the satisfaction of the MVO companies. The possibility to impose regulations to the entire sector, including the regulation relating to administrative levies, the product board avoids the 'free rider' dilemma.

Weighing private alternatives

Since the individual companies in the oils and fats sector are not capable of picking up the above mentioned subjects all by themselves, the choice has been made, on request of the branch organizations represented in the board, for a collective approach. Only with a public levy the goals which are pursued by society and by the sector can be reached.

Individual companies are not capable of deploying the mentioned activities. By using a public levy, there is no discrimination between members of branch organization on the one side and non members on the other side. This creates equivalent conditions of competition.

Implementation and maintenance aspects of the regulation

All implementation and maintenance aspects of this levy regulation are the product board's responsibility. No other institution or authority is imposed upon.

Administrative burden

The administrative burden resulting from this regulation is small. Information is used which the product board already receives thanks to the MVO Regulation General conditions 2004 or the MVO Regulation Providing data intra and extra community trade 2004. When measuring the administrative burden in 2004 the administrative burden resulting from this regulation was estimated on € 4,000 on a yearly basis.

Levy structure and justification

In comparison to the levy regulation 2008 the rate has been raised with € 0.03 to € 0.35 per 1,000 kg. The basic rate applies to products with a 100 % fat or oil content. The other rates have been derived from the basic rate and have been fixed according to the fat percentage.

The levy on imports of oils and fats being equal to the levy of nationally produced oils and fats and the products which are not completely composed of oil/fat, like oilseeds, spreadable fat products and emulated sauces being charged according to the oil or fat content, there is no discrimination between the levy on imported and the one on in the homeland produced products. Furthermore, since in the spending of the levy revenues there is no financial favoring of the national production in comparison to imported products, the levy on the

imported product is allowed for according to article 90 of the EC Treaty. On this place it should be noted that because of the large variety in company type – and therefore interests – in the oils and fats sector, not every specific activity which has been financed out of levy revenues will provide all entrepreneurs with the same benefit. Activity variation in relation to the different fields of interest prevents, however, an unequal treatment of entrepreneurs. Levies are not imposed, when the total figure for the levies due for one calendar month amounts to less than € 50.

Endowment of board competences

In order to make sure that all entrepreneurs who are liable for paying the levy indeed settle their debt, the chairman is authorized to impose an assessment on an entrepreneur by virtue of his office, if this entrepreneur does not fulfill his obligations for procuring the product board with the required data. If the chairman requests so, the entrepreneur must submit a statement signed by an accountant in which information is provided on the quantity of products imported, processed or rendered.

Retroactive effect

According to article 126, first paragraph, of the Industrial Organization Law levy regulations must be established each year. Since the levy rates is closely related to the organizations yearly budget, the levy regulations can only be established in the last quarter of the year preceding the year of application. This means that a large number of levy regulations from the public institutions must complete the approval procedure in a brief delay of time. It is, therefore, possible that the approval procedure for this regulation cannot be completed on such a moment in time as to publish it in the Regulation Magazine of Industrial Organization before 1st January 2009. In view of this possibility this regulation provides – eventually - for an entering into force with retroactive effect. It is perfectly reasonable for the entrepreneurs to take into account this levy regulation as from 1st January 2009, in view of the fact that this is a continuing levy which level is fixed each year and because communication on the subject has started in an early stadium.

Calculating the revenues and where to find it in the budget

Like mentioned in the 2009 budget the revenues of the administrative levies for this year are estimated on € 1,900,000.

Rijswijk, 27th November 2008

W. Oosterhuis, chairman

F.A.G.M. Claassen, secretary-general