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REGULATION (EEC) No 2771/75 OF THE COUNCIL
of 29 October 1975
on the common organization of the market in eggs

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament ⁽¹⁾;

Whereas since their adoption the basic provisions concerning the organization of the market in eggs have been amended a number of times; whereas, by reason of their number, their complexity and their dispersal among various Official Journals, the relevant texts are difficult to use and thus lack the clarity which should be an essential feature of all legislation; whereas they should therefore be consolidated in a single text;

Whereas the operation and development of the common market in agricultural products must be accompanied by the establishment of a common agricultural policy to include in particular a common organization of agricultural markets, which may take various forms depending on the product;

Whereas the aim of the common agricultural policy is to attain the objectives set out in Article 39 of the Treaty; whereas, in the eggs sector, in order to stabilize markets and to ensure a fair standard of living for the agricultural community concerned, provision should be made for measures to facilitate the adjustment of supply to market requirements;

Whereas the creation of a single market for eggs involves the introduction of a single trading system at the external frontiers of the Community, this system to include levies and export refunds;

Whereas to achieve this aim it should as a general rule be sufficient to introduce, in respect of imports from third countries, levies which take account of the incidence on feeding costs of the difference between prices for feed grain within the Community and on the world market, and of the need to protect the Community processing industry;

Whereas it is necessary to avoid disturbances on the Community market caused by offers made on the world market at abnormally low prices; whereas to this end sluice-gate prices should be fixed and levies should be increased by an additional amount when free-at-frontier offer prices are lower than those prices;

Whereas provision for a refund on exports to third countries equal to the difference between prices within the Community and on the world market would serve to safeguard Community participation in international trade in eggs; whereas in order to give Community exporters a certain amount of security as regards the stability of refunds, provision should be made to enable the refunds on eggs to be fixed in advance;

Whereas, in addition to the system described above, provision should be made for prohibiting, in whole or in part, when the situation on the market so requires the use of inward processing arrangements;

Whereas the levy system makes it possible to dispense with all other protective measures at the external frontiers of the Community; whereas, however, the levy machinery may in exceptional circumstances prove defective; whereas in such cases, so as not to leave the Community market without defence against disturbances which may arise therefrom after the import barriers which existed previously have been removed, the Community should be enabled to take all necessary measures without delay;

⁽¹⁾ OJ No C 60, 13. 3. 1975, p. 41.

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Whereas restrictions on free circulation resulting from the application of measures intended to prevent the spread of animal disease may cause difficulties on the market of one or more Member States; whereas it is necessary to make provision for the adoption of exceptional measures of market support to remedy such a situation;

Whereas, in order to facilitate implementation of the proposed measures, a procedure should be provided for establishing close cooperation between the Member States and the Commission within a Management Committee;

Whereas the establishment of a single market would be jeopardized by the granting of certain aids; whereas, therefore, the provisions of the Treaty which allow the assessment of aids granted by Member States and the prohibition of those which are incompatible with the common market should be made to apply to eggs;

Whereas the common organization of the market in eggs must take account in appropriate manner and at the same time of the objectives set out in Articles 39 and 110 of the Treaty;

Whereas the expenditure incurred by the Member States as a result of the obligations arising out of the application of this Regulation fall on the Community in accordance with the provisions of Articles 2 and 3 of Council Regulation (EEC) No 729/70 ⁽¹⁾ of 21 April 1970 on the financing of the common agricultural policy, as amended by Regulation (EEC) No 1566/72 ⁽²⁾,

HAS ADOPTED THIS REGULATION:

▼M6*Article 1***▼M8**

1. The common organization of the market in eggs shall cover the following products:

CN code	Description
(a) 0407 00 11	Poultry eggs, in shell, fresh, preserved or cooked
0407 00 19	
0407 00 30	
(b) 0408 11 80	Other eggs, not in shell, and other egg yolks, fresh, dried, cooked by steaming or by boiling in water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter
0408 19 81	
0408 19 89	
0408 91 80	
0408 99 80	

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2. For the purposes of this Regulation:

- (a) 'eggs in shell' means poultry eggs in shell, fresh, preserved, or cooked, other than eggs for hatching specified in (b);
- (b) 'eggs for hatching' means poultry eggs for hatching;
- (c) 'whole products' means birds' eggs not in shell, whether or not containing added sugar or other sweetening matter suitable for human consumption;
- (d) 'separated products' means birds' egg yolks, whether or not containing added sugar or other sweetened matter suitable for human consumption.

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽²⁾ OJ No L 167, 25. 7. 1972, p. 5.

▼ M7▼ B*Article 2*

1. In order to encourage action by trade and joint trade organizations to facilitate the adjustment of supply to market requirements, with the exception of action relating to withdrawal from the market, the following Community measures may be taken in respect of the products specified in Article 1 (1):

- measures to promote better organization of production, processing and marketing,
- measures to improve quality,
- measures to permit the establishment of short- and long-term forecasts on the basis of the means of production used,
- measures to facilitate the recording of market price trends.

General rules concerning these measures shall be adopted in accordance with the procedure laid down in Article 43 (2) of the Treaty.

2. For one or more of the products specified in Article 1 (1), marketing standards shall be adopted. These standards may relate in particular to grading by quality and weight, packaging, storage, transport, presentation and marketing.

Standards, their scope and the general rules for their application shall be adopted by the Council, acting by a qualified majority on a proposal from the Commission.

▼ M9*Article 3*

1. Imports into the Community, or exports therefrom, of any of the products listed in Article 1 (1) ► C1 may be subject ◀ to presentation of an import or export licence.

Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Articles 6 and 8.

Import and export licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of *force majeure*, the security shall be forfeited in whole or in part if import or export is not carried out, or is only carried out partially, within that period.

2. The term of validity of licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 17.

Article 4

Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1 (1).

Article 5

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 10 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement of Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

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2. The trigger prices below which an additional import duty may be imposed shall be those notified which are in conformity with the prices notified by the Community to the World Trade Organization.

The trigger volumes which must be exceeded for an additional import duty to be imposed shall be determined specifically on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment under consideration.

Cif import prices shall be checked to that end against the representative prices for the product on the world market or on the Community import market for that product.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 17. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties shall be applied under the terms of Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary to ensure application of paragraph 1 in accordance with Article 5 of the said Agreement.

Article 6

1. Tariff quotas for the products listed in Article 1 (1) resulting from agreements concluded in the Uruguay Round of multilateral trade negotiations shall be opened and administered in accordance with detailed rules adopted under the procedure laid down in Article 17.

2. Quotas shall be administered by applying one of the following methods or a combination of them:

- method based on the chronological order of the lodging of applications (first come, first served principle),
- method of distribution in proportion to the quantities requested when the applications were lodged (using the simultaneous examination method),
- method based on taking traditional trade patterns into account (using the traditional/new arrivals method).

Other appropriate methods may be adopted.

They must avoid any discrimination between the operators concerned.

3. The method of administration adopted shall, where appropriate, give due weight to the supply requirements of the Community market and the need to safeguard the equilibrium of that market, whilst at the same time possibly drawing on methods which may have been applied in the past to quotas corresponding to those referred to in paragraph 1 without prejudice to the rights resulting from agreements concluded in the framework of the Uruguay Round negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year if necessary, and, where appropriate, for:

- (a) guarantees covering the nature, provenance and origin of the product;
- (b) recognition of the document used for verifying the guarantees referred to in (a); and
- (c) the conditions under which import licences are issued and their term of validity.

Article 7

Where prices on the Community market rise significantly and where that situation is likely to continue, thereby disturbing or threatening to disturb that market, appropriate measures may be taken.

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The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for application of this Article.

Article 8

1. To the extent necessary to enable the products listed in Article 1 (1) to be exported on the basis of prices for those products on the world market and within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those prices and prices in the Community may be covered by export refunds.

2. The method to be adopted for the allocation of the quantities which may be exported with a refund shall be the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available, account being taken of the efficiency and structure of Community exports without, however, creating discrimination between large and small operators;
- (b) is least cumbersome administratively for operators, account being taken of administration requirements;
- (c) prevents any discrimination between the operators concerned.

3. Refunds shall be the same for the whole Community.

They may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

Refunds shall be fixed in accordance with the procedure laid down in Article 17. Refunds shall be fixed at regular intervals without recourse, however, to the tendering procedure.

The list of products on which an export refund is granted and the amount of such refund shall be fixed at least once every three months. The amount of the refund may, however, remain at the same level for more than three months and may, where necessary, be adjusted in the intervening period by the Commission at the request of a Member State or on its own initiative.

4. The following shall be taken into account when refunds are being fixed:

- (a) the existing situation and the future trend with regard to:
 - prices and availabilities of egg-sector products on the Community market,
 - prices of egg-sector products on the world market;
- (b) the need to avoid disturbances likely to lead to a prolonged imbalance between supply and demand on the Community market;
- (c) the economic aspect of the proposed exports;
- (d) the limits resulting from agreements concluded in accordance with Article 228 of the Treaty.

When the amount of the refund is set, account shall also be taken in particular of the need to establish a balance between the use of Community basic agricultural products for export as processed goods to third countries, and the use of products from those countries admitted for inward processing.

Moreover, when the amount of the refund is calculated, account shall be taken, in the case of the products listed in Article 1 (1), of the difference between the prices in the Community on the one hand and on the world market on the other of the quantity of feed-grain needed in the Community to produce one kilogram of eggs in shell and having regard, in the case of products other than eggs in shell, to the quantity of eggs in shell used in the manufacture of such products and/or the average ratio between the commercial values of the egg constituents.

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5. When prices in the Community referred to in paragraph 1 are being determined account shall be taken of:

- (a) prices obtaining at the various stages of marketing in the Community;
- (b) prices obtaining for exports.

When prices on the world market referred to in paragraph 1 are being determined, account shall be taken of:

- (a) prices obtaining on third-country markets;
- (b) the most favourable prices in third countries of destination for third-country imports;
- (c) producer prices recorded in exporting third countries, account being taken where appropriate, of subsidies granted by those countries;
- (d) free-at-Community-frontier offer prices.

6. Refunds on products listed in Article 1 (1) and exported without further processing shall only be granted on application and on presentation of the relevant export licence, except in the case of eggs for hatching where a licence may be granted *ex post*.

7. The refund applicable to exports of products listed in Article 1 (1) exported without further processing shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day for:

- (a) the destination indicated on the licence, or where appropriate;
- (b) the actual destination if it differs from the destination indicated on the licence. In that case, the amount applicable may not exceed the amount applicable for the destination indicated on the licence.

Appropriate measures may be taken to prevent abuse of the flexibility provided for in this paragraph.

8. Paragraphs 6 and 7 may be made to apply to products listed in Article 1 (1) and exported in the form of goods listed in Annex I in accordance with the procedure laid down in Article 16 of Regulation (EC) No 3448/93.

9. Paragraphs 6 and 7 may be waived in the case of products listed in Article 1 (1) on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 17.

10. The refund shall be paid upon proof that:

- the products have been exported from the Community,
- the products are of Community origin, except where paragraph 11 applies, and
- in the case of a differentiated refund, the products have reached the destination for which the refund was fixed, without prejudice to paragraph 7 (b). Exceptions may be made to this rule in accordance with the procedure laid down in Article 17, provided conditions are laid down which offer equivalent guarantees.

11. No export refund shall be granted on products listed in Article 1 (1) which are imported from third countries and re-exported to third countries, unless the exporter proves that:

- the product to be exported and the product previously imported are one and the same, and
- the levy was collected on importation.

In such cases the refund on each product shall be equal to the levy collected on importation where this levy is equal to or lower than the refund applicable; the refund shall be equal to the refund applicable where the levy collected on importation is higher than this refund.

12. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export certificates issued for the reference periods provided for therein and applicable to the products concerned. With regard to compliance with the obligations arising under the

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Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

13. Detailed rules for the application of this Article, including the arrangements for redistributing unallocated and unused quantities, shall be adopted in accordance with the procedure laid down in Article 17. Annex I shall be amended in accordance with the same procedure. However, detailed rules for the application of paragraph 8 to the products referred to in Article 1 (1) exported in the form of goods listed in Annex I shall be adopted in accordance with the procedure laid down in Article 16 of Regulation (EC) No 3448/93.

Article 9

1. To the extent necessary for the proper working of the common organization of the market in eggs, the Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, may in special cases prohibit in whole or in part the use of inward processing traffic in respect of:

- products listed in Article 1 (1) which are intended for the manufacture of products listed in Article 1 (1) (b), and
- in special cases, products listed in Article 1 (1) which are intended for the manufacture of goods listed in Annex I.

2. In derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by the inward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.

3. Measures decided on by the Commission may be referred to the Council by any Member State within a week of the day on which they were notified. The Council, acting by a qualified majority, may confirm, amend or repeal the Commission decision. If the Council has not acted within three months, the Commission decision shall be deemed to have been repealed.

Article 10

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided for in this Regulation or pursuant to a provision thereof, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

Article 11

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 (1) is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for the application of this paragraph and

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shall define in what cases and within what limits Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.

▼B*Article 13*

Products specified in Article 1 (1) which are manufactured or obtained from products not specified in Articles 9 (2) and 10 (1) of the Treaty shall not be admitted to free circulation within the Community.

Article 14

In order to take account of any restrictions on free circulation imposed in consequence of measures to prevent the spread of animal disease, exceptional measures may be taken under the procedure provided for in Article 17 to support any market affected by such restrictions. Such measures may be taken only to the extent that and for such period as is strictly necessary for the support of that market.

Article 15

The Member States and the Commission shall communicate to each other the information necessary for implementing this Regulation. Rules for the communication and distribution of such information shall be adopted in accordance with the procedure laid down in Article 17.

Article 16

1. There is hereby established a Management Committee for Poultrymeat and Eggs (hereinafter called 'the Committee'), consisting of representatives of the Member States with a representative of the Commission as Chairman.

▼M13*Article 17*

1. The Commission shall be assisted by the Management Committee for Poultrymeat and Eggs.

2. Where reference is made to this Article, Articles 4 and 7 of Decision 1999/468/EC ⁽¹⁾ shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its Rules of Procedure.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

▼B*Article 18*

The Committee may consider any other question referred to it by its Chairman either on his own initiative or at the request of the representative of a Member State.

Article 19

Save as otherwise provided in this Regulation, Articles 92 to 94 of the Treaty shall apply to the production of and trade in the products specified in Article 1 (1).

Article 20

This Regulation shall be so applied that account is taken, in appropriate manner and at the same time, of the objectives set out in Articles 39 and 110 of the Treaty.

Article 21

Should Italy have recourse to the provisions of Article 23 of Council Regulation (EEC) No 2727/75 ⁽¹⁾ of 29 October 1975 on the common organization of the market in cereals, the Council, acting by a qualified majority on a proposal from the Commission, shall take the necessary measures to avoid distortions of competition.

Article 22

1. Council Regulation No 122/67/EEC ⁽²⁾ of 13 June 1967 on the common organization of the market in eggs, as last amended by the Council Decision of 1 January 1973 ⁽³⁾ adjusting the documents concerning the accession of the new Member States to the European Communities, is hereby repealed.

2. All references to the Regulation repealed by paragraph 1 shall be construed as references to this Regulation.

References to articles of that Regulation are to be read in accordance with the correlation given in Annex II.

Article 23

This Regulation shall enter into force on 1 November 1975.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 7.

⁽²⁾ OJ No 117, 19. 6. 1967, p. 2293/67.

⁽³⁾ OJ No L 2, 1. 2. 1973, p. 1.

▼ M11

ANNEX I

CN code	Description
ex 0403 10 51 to ex 0403 10 99 ex 0403 90 71 to ex 0403 90 99	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, flavoured or containing added cocoa, whether or not concentrated or containing added sugar or other sweetening matter
1806	Chocolate and other food preparations containing cocoa
ex 1901	Food preparations of goods of heading Nos 0401 to 0404, containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included
1902 11 00	Uncooked pasta, not stuffed or otherwise prepared containing eggs
ex 1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, cornflakes); cereals, other than maize (corn), in grain form or in the form of flakes or other worked grains (except flour and meal), precooked or otherwise prepared, not elsewhere specified or included, containing cocoa
1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products
1905 20	- Gingerbread and the like
▼ <u>M12</u> 1905 31	- Sweet biscuits
1905 32	- Waffles and wafers
▼ <u>M11</u> 1905 40	- Rusks, toasted bread and similar toasted products
1905 90	- Other, with the exception of products falling within CN codes 1905 90 10 to 1905 90 30
ex 2105 00	Ice cream and other edible ice, containing cocoa
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol; spirits, liqueurs and other spirituous beverages:
2208 70	- Liqueurs
3502	Albumins (including concentrates of two or more whey proteins, containing by weight more than 80 % whey proteins, calculated on the dry matter), albuminates and other albumin derivatives:
3502 11 90	- - - Other dried egg albumin
3502 19 90	- - - Other egg albumin

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ANNEX II

Correlation

<i>Regulation No 122/67/EEC</i>	<i>This Regulation</i>
Article 13 a	Article 14
Article 14	Article 19
Article 22	Article 21
Annex	Annex I