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► **B** **REGULATION (EEC) NO 2777/75 OF THE COUNCIL**
of 29 October 1975
on the common organization of the market in poultrymeat

(OJ L 282, 1.11.1975, p. 77)

Amended by:

	Official Journal		
	No	page	date
► <u>M1</u> Council Regulation (EEC) No 369/76 of 16 February 1976	L 45	3	21.2.1976
► <u>M2</u> Council Regulation (EEC) No 3768/85 of 20 December 1985	L 362	8	31.12.1985
► <u>M3</u> Council Regulation (EEC) No 1475/86 of 13 May 1986	L 133	39	21.5.1986
► <u>M4</u> Council Regulation (EEC) No 3907/87 of 22 December 1987	L 370	14	30.12.1987
► <u>M5</u> Council Regulation (EEC) No 1235/89 of 3 May 1989	L 128	29	11.5.1989
► <u>M6</u> Commission Regulation (EEC) No 3714/92 of 22 December 1992	L 378	23	23.12.1992
► <u>M7</u> Council Regulation (EEC) No 1574/93 of 14 June 1993	L 152	1	24.6.1993
► <u>M8</u> Council Regulation (EC) No 3290/94 of 22 December 1994	L 349	105	31.12.1994
► <u>M9</u> Commission Regulation (EC) No 2916/95 of 18 December 1995	L 305	49	19.12.1995
► <u>M10</u> Commission Regulation (EC) No 493/2002 of 19 March 2002	L 77	7	20.3.2002

Amended by:

► <u>A1</u> Act of Accession of Greece	L 291	17	19.11.1979
► <u>A2</u> Act of Accession of Austria, Sweden and Finland	C 241	21	29.8.1994
(adapted by Council Decision 95/1/EC, Euratom, ECSC)	L 1	1	1.1.1995

Corrected by:

- **C1** Corrigendum, OJ L 213, 6.8.1988, p. 54 (3907/87)

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REGULATION (EEC) NO 2777/75 OF THE COUNCIL
of 29 October 1975
on the common organization of the market in poultrymeat

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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 poultrymeat 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 poultrymeat 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 poultrymeat 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 poultrymeat; 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 poultrymeat 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

⁽¹⁾ OJ No C 60, 13. 3. 1975, p. 41.

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been removed, the Community should be enabled to take all necessary measures without delay;

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 poultrymeat;

Whereas the common organization of the market in poultrymeat 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:

Article 1

▼**M7**

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

CN code	Description of goods
a) 0105	Live poultry, that is to say, fowls of the species <i>Gallus domesticus</i> , ducks, geese, turkeys and guinea fowl
b) ex 0207	Meat and edible offal, of the poultry of heading No 0105 fresh, chilled or frozen, excluding livers falling within CN codes 0207 31, 0207 39 90 and 0207 50
c) ► M9 0207 34 ◀ ► M9 0207 13 91 ◀ ► M9 0207 14 91 ◀ ► M9 0207 26 91 ◀ ► M9 0207 27 91 ◀ ► M9 0207 35 91 ◀ ► M9 0207 36 81 ◀ ► M9 0207 36 85 ◀ ► M9 0207 36 89 ◀	Poultry livers, fresh, chilled or frozen

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽²⁾ OJ No L 167, 25. 7. 1972, p. 5.

▼ **M7**

	CN code	Description of goods	
	► M10 0210 99 71 ◀	Poultry livers, salted, in brine, dried or smoked	
	► M10 0210 99 79 ◀		
d)	0209 00 90	Poultry fat (not rendered), fresh, chilled, frozen, salted, in brine, dried or smoked	
e)	1501 00 90	Poultry fat, rendered whether or not pressed or solvent-extracted	
f)	1602 20 11	Other prepared or preserved goose or duck livers	
	1602 20 19		
	1602 31		Other prepared or preserved meat, or meat offal of poultry of heading No 0105
	1602 32		
	1602 39		

▼ **M9**▼ **M7**▼ **B**

2. For the purposes of this Regulation:

- (a) 'live poultry' means live fowls, ducks, geese, turkeys and guinea fowls each weighing more than 185 grammes;
- (b) 'chicks' means live fowls, ducks, geese, geese, turkeys and guinea fowls, each weighing not more than 185 grammes;
- (c) 'slaughtered poultry' means dead fowls, ducks, geese, turkeys and guinea fowls, whole, with or without offal;
- (d) 'derived products' means the following:
 1. products specified in paragraph 1 (a), excluding chicks,
 2. products specified in paragraph 1 (b), excluding slaughtered poultry and edible offals, known as 'poultry cuts',
 3. edible offals specified in paragraph 1 (b),
 4. products specified in paragraph 1 (c),
 5. products specified in paragraph 1 (d) and (e),

▼ **M7**

6. Products referred to in paragraph 1 (f), other than those products falling within CN codes 1602 20 11 and 1602 20 19

▼ **M5**▼ **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.

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

2. Marketing standards:

- shall be adopted for one or more of the products specified in Article 1 (1) (b),
- may be adopted for the products specified in Article 1 (1) (a), (c), (d), (e) and (f).

These standards may relate in particular to grading by quality and weight, packaging, storage, transport, presentation and marking.

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.

▼M8*Article 3*

1. Imports into the Community, or exports therefrom, of any of the products listed in Article 1 (1) 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 on 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.

2. The trigger prices below which an additional import duty may be imposed shall be those 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 in question.

▼ **M8**

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 that 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.

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.

▼ **M8**

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 poultrymeat products on the Community market,
 - prices for poultrymeat products on the world market;
- (b) the importance of avoiding disturbances likely to bring about a prolonged imbalance between supply and demand on the Community market;
- (c) the economic aspect of the proposed exports;
- (d) limits arising 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.

In addition, for the purpose of calculating the refund for the products referred to in Article 1 (1), account shall be taken of the difference between Community and world market prices for the amount of feed-grains required to produce one kilogram of slaughtered poultry in the Community, allowing, in the case of products other than slaughtered poultry, for the differences in the weight of the different products and/or the average of their commercial values.

5. The Community price referred to in paragraph 1 shall be established on the following basis:

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

The world market prices referred to in paragraph 1 shall be established on the following basis:

- (a) the prices on third-country markets;
- (b) the most favourable prices in third countries of destination for third-country imports;

▼ **M8**

- (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 shall be granted only on application and on presentation of the relevant export licence, except in this case of day-old chicks for which a licence may be granted *ex-post*.

7. The refund applicable to exports of products listed in Article 1 (1) 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:

- (a) for the destination indicated on the licence or, where appropriate;
- (b) for 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 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.

9. The refund shall be paid upon proof:

- that the products have been exported from the Community,
- that the products are of Community origin, except where paragraph 10 applies, and
- that, in the case of a differentiated refund, the products have reached the destination indicated on the licence or another destination for which a 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.

10. 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
- that all import duties were collected on importation.

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

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

12. 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.

Article 9

1. To the extent necessary for the proper working of the common organization of the market in poultrymeat, the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, may, in special cases, prohibit in whole or in part the use of inward or outward processing arrangements in respect of products listed in Article 1 (1) which are intended for the manufacture of products listed in Article 1 (1).

▼ **M8**

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 or outward 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 Commission proposal 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 define the cases in which and the limits within which 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.

▼ M8▼ 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.

2. Within the Committee the votes of Member States shall be weighted in accordance with Article 148 (2) of the Treaty. The Chairman shall not vote.

Article 17

1. Where the procedure laid down in this Article is to be followed, the Chairman shall refer the matter to the Committee either on his own initiative or at the request of the representative of a Member State.

▼ A2

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

▼ B

3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the Opinion of the Committee, they shall forthwith be communicated by the Commission to the Council. In that event, the Commission may, for not more than one month from the date of such communication, defer application of the measures which it has adopted.

The Council, acting by a qualified majority, may take a different decision within one month.

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.

▼B*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 123/67/EEC⁽²⁾ of 13 June 1967 on the common organization of the market in poultrymeat, 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 the Annex.

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. 2301/67.

⁽³⁾ OJ No L 2, 1. 1. 1973, p. 1.

▼B

ANNEX

Correlation

Regulation No 123/67/EEC

Article 13 a

Article 14

Article 21

This Regulation

Article 14

Article 19

Article 20