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(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 1555/96
of 30 July 1996**

on rules of application for additional import duties on fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Commission Regulation (EC) No 1363/95⁽²⁾, and in particular Article 24 (4) thereof,

Whereas under Regulation (EEC) No 1035/72 import duty additional to that provided for in the Common Customs Tariff ('additional duty') can be imposed on certain products covered by that Regulation if the terms of Article 5 of the Agreement on Agriculture⁽³⁾ are met, unless there is no risk of disturbance of the Community market or the impact would be disproportionate to the end sought;

Whereas additional duty may be imposed if import volumes of the products concerned, determined from import licences issued by Member States or by procedures introduced under a preferential agreement, exceed trigger levels determined by product and period of application as specified in Article 5 (4) of the Agreement on Agriculture;

Whereas additional duty may be imposed only on imports the tariff classification of which made in line with Article 5 of Commission Regulation (EC) No 3223/94⁽⁴⁾, as last amended by Regulation (EC) No 2933/95⁽⁵⁾, entails application of the highest specific duty and on imports made outside the tariff quotas set in the World Trade

Organization framework; whereas no additional duty may be imposed on products which enjoy preferences in respect of the entry price, in so far as their tariff classification does not entail application of the highest specific duty;

Whereas, in the case of imports enjoying tariff preference as to *ad valorem* duty, calculation of the additional duty must take account of this;

Whereas goods en route to the Community are exempt from additional duty; whereas specific provisions on these should therefore be enacted;

Whereas the introduction of the import licence arrangements will not prevent their being replaced by a rapid computerized procedure for recording imports as soon as it is legally and practically possible to set one up; whereas there will be an evaluation in this respect by 31 December 1997;

Whereas the Management Committee for fresh Fruit and Vegetables has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Additional import duty as referred to in Article 24 (1) of Regulation (EEC) No 1035/72, termed 'additional duty' below, may be applied to the products listed in the Annex hereto on the conditions set out below.

Article 2

Trigger levels and the applicable periods for each of the products listed in the Annex shall be set each year.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 132, 16. 6. 1995, p. 8.

⁽³⁾ OJ No L 336, 23. 12. 1994, p. 22.

⁽⁴⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽⁵⁾ OJ No L 307, 20. 12. 1995, p. 21.

Article 3

1. If it is found that the quantity imported of a product to which the special safeguard clause applies has in respect of a given period exceeded, as determined from the issued import licences drawn up in accordance with Article 22 (2) of Regulation (EEC) No 1035/72, or by procedure introduced under a preferential agreement, the trigger level set under Article 2, the Commission shall impose an additional duty.

2. It shall apply to goods covered by an import licence issued after the date of introduction of the duty and to imports effected after that date in the event of a procedure, within the meaning of paragraph 1, introduced under a preferential agreement provided that:

- their tariff classification determined in line with Article 5 of Regulation (EC) No 3223/94 entails application of the highest specific duties applicable to imports of the origin in question,
- importation is made during the period of application of the additional duty.

Article 4

1. The additional duty imposed under Article 3 shall be one third of the customs duty applicable to the product given in the Common Customs Tariff.

2. However, for imports enjoying tariff preference as to *ad valorem* duty the additional duty shall be one third of the specific duty on the product in so far as Article 3 (2) applies.

Article 5

1. The following are exempt from additional duty:

- (a) goods imported against the tariff quotas listed in Annex 7 to the combined nomenclature;
- (b) goods en route to the Community as defined in paragraph 2.

2. Goods shall be considered to be en route to the Community that:

- left the country of origin before the decision to impose additional duty, and
- are being transported under cover of a transport document valid from the place of loading in the country of origin to the place of unloading in the Community, drawn up before imposition of additional duty.

3. Interested parties shall provide evidence to the satisfaction of the customs authorities that the requirements of paragraph 2 are met.

However, these authorities may deem that goods left their country of origin before the date of imposition of additional duty if one of the following documents is provided:

- for sea transport, the bill of lading showing that loading took place before that date,
- for rail transport, the waybill accepted by the rail authorities of the country of origin before that date,
- for road transport, the road carriage contract (CMR) or another transit document made out in the country of origin before that date, if the conditions laid down in bilateral or multilateral arrangements concluded in the context of Community transit or common transit are observed,
- for air transport, the air way bill showing that the airline accepted the goods before that date.

Article 6

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 30 July 1996.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

CN code	Description
0702 00	Tomatoes
0707 00 10	Cucumbers
0707 00 15	
0707 00 20	
0707 00 25	
0707 00 30	
0707 00 35	
0707 00 40	
0709 10 40	Artichokes
0709 10 10	
0709 10 20	
0709 90 71	Courgettes
0709 90 73	
0709 90 75	
0709 90 77	
0709 90 79	
0805 10 61	Sweet oranges, fresh
0805 10 65	
0805 10 69	
0805 10 01	
0805 10 05	
0805 10 09	
0805 10 11	
0805 10 15	
0805 10 19	
0805 10 21	
0805 10 25	
0805 10 29	
0805 10 31	
0805 10 33	
0805 10 35	
0805 20 31	
0805 20 11	
0805 10 33	Mandarins, including tangerines, satsumas, wilkings and similar citrus hybrids
0805 20 35	
0805 20 37	
0805 20 39	
0805 20 13	
0805 20 15	
0805 20 17	
0805 20 19	
0805 30 30	Lemons
0805 30 40	
0805 30 20	
0806 10 40	Table grapes
0806 10 50	
0808 10 71	Apples (!)
0808 10 73	
0808 10 79	
0808 10 92	
0808 10 94	
0808 10 98	
0808 10 51	
0808 10 53	
0808 10 59	
0808 10 61	
0808 10 63	
0808 10 69	

CN code	Description
0808 20 47	Pears ⁽²⁾
0808 20 51	
0808 20 57	
0808 20 67	
0808 20 31	
0808 20 37	
0809 10 20	Apricots
0809 10 30	
0809 10 40	
0809 20 31	Cherries
0809 20 39	
0809 20 41	
0809 20 49	
0809 20 51	
0809 20 59	
0809 20 61	
0809 20 69	
0809 30 21	Peaches and nectarines
0809 30 29	
0809 30 31	
0809 30 39	
0809 30 41	
0809 30 49	
0809 40 20	Plums
0809 40 30	

⁽¹⁾ Except cider apples of CN code 0808 10 10 presented in bulk from 16 September to 15 December.

⁽²⁾ Except perry pears of CN code 0808 20 10 presented in bulk from 1 August to 31 December.