

Council Regulation (EC) No 2200/96 of 28 October 1996 on the  
common organization of the market in fruit and vegetables (repealed)

TITLE V

**Trade with third countries**

*Article 31*

1 Imports into the Community, or exports therefrom, of any of the products listed in Article 1 (2) may be subject to presentation of an import or export licence.

Licences shall be issued by 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 36 and 37.

Import and export licences shall be valid throughout the Community. The issue of such licences may be 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 carried out only partially, within that period.

2 The term of validity of import and export licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 46.

*Article 32*

1 Save as otherwise provided for in this Regulation, the rates of duty in the common customs tariff shall apply to the products listed in Article 1 (2).

2 Should application of the common customs tariff duty rate depend on the entry price of the imported consignment, the veracity of this price shall be checked using a flat-rate import value calculated by the Commission, by product and by origin, on the basis of the weighted average of prices for the product on Member States' representative import markets or on other markets, where appropriate.

Specific provisions may, however, be adopted for verifying the entry price of products imported primarily for processing, in accordance with the procedure laid down in Article 46.

3 Where the declared entry price of the consignment in question is higher than the flat-rate import value, increased by a margin set in accordance with paragraph 5 which may not exceed the flat-rate value by more than 10 %, the lodging of a security equal to the import duty determined on the basis of the flat-rate import value shall be required.

4 If the entry price of the consignment in question is not declared at the time of customs clearance, the common customs tariff duty rate applied shall depend on the flat-rate import value or be arrived at by application of the relevant customs legislation provisions under conditions to be determined in accordance with paragraph 5.

5 Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 46.

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### Article 33

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 (2), imports of one or more of such products at the rate of duty laid down in the common customs tariff shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on agriculture<sup>(1)</sup> concluded 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 the effects would be disproportionate to the intended objective.

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

The trigger volumes to be exceeded in order to have the additional import duty imposed shall be determined in particular 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 concerned.

The cif import prices shall be verified for this purpose on the basis of representative prices for the product in question on the world market or on the Community import market for the product.

4 Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 46. Such detailed rules shall specify in particular:

- a the products to which additional import duties may be applied under Article 5 of the Agreement on agriculture referred to in paragraph 1 of this Article;
- b the other criteria necessary for application of paragraph 1 in accordance with Article 5 of the said Agreement on agriculture.

### Article 34

1 Tariff quotas for the products listed in Article 1 (2) resulting from agreements concluded within the framework of the Uruguay Round of multilateral trade negotiations shall be opened and administered in accordance with detailed rules adopted in accordance with the procedure laid down in Article 46.

2 Quotas may be administered by applying one of the following methods or a combination thereof:

- a a method based on the chronological order in which applications are lodged ('first come, first served' basis);
- b a method of allocating quotas in proportion to quantities requested when applications are lodged (using the 'simultaneous examination' method);
- c a method based on taking traditional trade flows into account (using the 'traditional importers/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, take account of the supply needs of the Community market and the need to safeguard the equilibrium of that market, whilst at the same time drawing on methods applied in the past to quotas corresponding to those referred to in paragraph 1, without prejudice to rights arising from agreements concluded in the framework of the Uruguay Round of trade negotiations.

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4 The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year, shall determine the administrative method to be used and, where appropriate, shall include:

- 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 35*

1 To the extent necessary to enable economically significant quantities of the products listed in Article 1 (2) to be exported on the basis of the prices of these products in international trade but 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 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, allows the most efficient possible use of the resources available and takes due account of the efficiency and structure of Community exports, without, however, creating discrimination between large and small operators;
- b is least cumbersome administratively for operators, administration requirements taken into account;
- c avoids any discrimination between the operators concerned.

3 Refunds shall be the same for the whole Community.

Where the international trade situation or the specific requirements of certain markets make this necessary, the refund for a given product may vary according to the destination of the product.

[<sup>F1</sup>Refunds shall be fixed in accordance with the procedure laid down in Article 46. Refunds shall be fixed periodically or by tender.]

Refunds fixed periodically may, where necessary, be adjusted in the interval 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 likely trends with regard to:
  - prices and availability of fruit and vegetables on the Community market,
  - prices for fruit and vegetables in international trade;
- b marketing costs and minimum transport charges from Community markets to ports and other Community export points, and forwarding costs to the country of destination;
- c the economic aspect of the proposed exports;
- d the limits resulting from agreements concluded in accordance with Article 228 of the Treaty.

5 The Community market prices referred to in paragraph 1 shall be determined using the prices which are most favourable from the exportation point of view.

The world market prices referred to in paragraph 1 shall be determined using:

- a prices recorded on third-country markets;
- b the most favourable prices in third countries for imports from other third countries;
- c producer prices recorded in exporting third countries;

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d free-at-Community-frontier offer prices.

6 Refunds shall be granted only on application and on presentation of the relevant export licence.

7 The refund 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
- 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 (2) on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 46.

9 The refund shall be paid upon proof that the products:

- have been exported from the Community,
- are of Community origin, and
- in the case of a differentiated refund, have reached the destination indicated on the licence or another destination for which a refund was fixed, without prejudice to point (b) of paragraph 7. Exceptions may be made to this rule in accordance with the procedure laid down in Article 46, provided conditions are laid down which offer equivalent guarantees.

10 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 licences issued for the reference periods provided for therein and applicable to the products concerned.

With regard to compliance with the obligations arising under the agreements concluded in the Uruguay Round trade negotiations, the ending of a reference period shall not affect the validity of export licences.

11 Detailed rules for the application of this Article, including provisions for the redistribution of unallocated or unused exportable quantities, shall be adopted in accordance with the procedure laid down in Article 46.

#### **Textual Amendments**

- F1** Substituted by [Council Regulation \(EC\) No 2699/2000 of 4 December 2000 amending Regulation \(EC\) No 2200/96 on the common organisation of the market in fruit and vegetables, Regulation \(EC\) No 2201/96 on the common organisation of the market in processed fruit and vegetables and Regulation \(EC\) No 2202/96 introducing a Community aid scheme for producers of certain citrus fruits.](#)

#### *Article 36*

1 Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited when importing the products listed in Article 1 (2) from third countries:

- the levying of any charge having equivalent effect to a customs duty,

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— the application of any quantitative restriction or measure having equivalent effect.

2 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.

#### *Article 37*

1 Appropriate measures may be taken when trading with third countries if, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 (2) is affected by, or is threatened with, serious disturbance likely to jeopardize achievement of the objectives set out in Article 39 of the Treaty.

Such measures may be applied only until, depending on the case, the disturbance or threat of disturbance has ceased or the quantities withdrawn or bought in have diminished appreciably.

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 general rules for application of this paragraph and 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 these and they 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 confirm, amend or rescind the measure in question.

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

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- (1) [OJ No L 336, 23. 12. 1994, p. 22.](#)

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