

Council Regulation (EC) No 1182/2007 of 26 September 2007 laying down specific rules as regards the fruit and vegetable sector, amending Directives 2001/112/EC and 2001/113/EC and Regulations (EEC) No 827/68, (EC) No 2200/96, (EC) No 2201/96, (EC) No 2826/2000, (EC) No 1782/2003 and (EC) No 318/2006 and repealing Regulation (EC) No 2202/96 (repealed)

## TITLE V

### TRADE WITH THIRD COUNTRIES

#### CHAPTER I

##### **General provisions**

###### *Article 26*

##### **General principles**

Unless otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- (a) the levying of any charge having equivalent effect to a customs duty;
- (b) the application of any quantitative restriction or measure having equivalent effect.

###### *Article 27*

##### **Combined Nomenclature**

The general rules for interpreting the Combined Nomenclature and the special rules for its application shall apply to the tariff classification of products covered by this Title. The tariff nomenclature resulting from the application of this Regulation shall be included in the Common Customs Tariff.

## CHAPTER II

### **Imports**

#### *Section I*

#### **Import licences**

##### *Article 28*

#### **Optional import licence systems**

The Commission may make imports into the Community of one or more products covered by this Regulation subject to presentation of an import licence.

##### *Article 29*

#### **Issue of licences**

Import licences shall be issued by Member States to any applicant, irrespective of his place of establishment in the Community, unless otherwise provided by the Council and without prejudice to measures taken for the application of this Chapter.

##### *Article 30*

#### **Validity**

Import licences shall be valid throughout the Community.

##### *Article 31*

#### **Security**

1 Unless otherwise provided for in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96, licences shall be issued subject to the lodging of a security guaranteeing that the products are imported during the term of validity of the licence.

2 Except in cases of *force majeure*, the security shall be forfeited in whole or in part if the import is not carried out, or is carried out only partially, within the period of validity of the licence.

##### *Article 32*

#### **Implementing rules**

Detailed rules for the application of this Section, including the terms of validity of the licences and the rate of security, shall be adopted in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.

## *Section II*

### **Import duties and entry price system**

#### *Article 33*

##### **Import duties**

Unless otherwise provided for in this Regulation, the import duty rates in the Common Customs Tariff shall apply to products covered by this Regulation.

#### *Article 34*

##### **Entry price system**

1 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 referred to in Article 46(2) of Regulation (EC) No 2200/96.

2 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 the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96 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.

3 If the entry price of the consignment in question is not declared at the time of customs clearance, the Common Customs Tariff duty rate to be 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 the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.

4 Detailed implementing rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.

#### *Article 35*

##### **Additional import duties**

1 An additional import duty shall apply to imports at the rate of duty laid down in Articles 33 and 34 of one or more products covered by this Regulation, in order to prevent or counteract adverse effects on the market of the Community which may result from those imports, if:

- a the imports are made at a price below the level notified by the Community to the World Trade Organisation ('the trigger price'); or
- b the volume of imports in any year exceeds a certain level ('the trigger volume').

The trigger volume shall be based on market access opportunities defined as imports as a percentage of the corresponding domestic consumption during the three previous years.

2 Additional import duties shall not be imposed where the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

3 For the purposes of paragraph 1(a), import prices shall be determined on the basis of the CIF import prices of the consignment under consideration.

CIF import prices shall be checked against the representative prices for the product concerned on the world market or on the Community import market.

4 Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96. Such detailed rules shall specify in particular:

- a the products to which additional import duties shall be applied;
- b other criteria necessary to ensure application of paragraph 1.

### *Section III*

#### ***Import quota management***

##### *Article 36*

#### **Tariff quotas**

1 Tariff quotas for imports of products covered by this Regulation resulting from agreements concluded in accordance with Article 300 of the Treaty or from an act of the Council shall be opened and administered by the Commission under detailed rules adopted in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.

2 Tariff quotas shall be administered in a manner which avoids any discrimination between the operators concerned, by applying one of the following methods or a combination of them or another appropriate method:

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

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.

##### *Article 37*

#### **Opening of tariff quotas**

The Commission shall, in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96, provide for the annual tariff quotas, if necessary suitably phased over the year, and determine the administrative method to be used.

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Detailed rules for the implementation of this Section shall be adopted in accordance with the same procedure, in particular on:

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

#### *Section IV*

### ***Safeguard measures and inward processing***

#### *Article 38*

### **Safeguard measures**

1 Safeguard measures against imports into the Community shall be taken by the Commission, subject to paragraph 3 of this Article, in accordance with Council Regulation (EC) No 519/94 of 7 March 1994 on common rules for imports from certain third countries<sup>(1)</sup> and Council Regulation (EC) No 3285/94 of 22 December 1994 on the common rules for imports<sup>(2)</sup>.

2 Unless otherwise provided by the Council, safeguard measures against imports into the Community provided for in international agreements concluded in accordance with Article 300 of the Treaty shall be taken by the Commission in accordance with paragraph 3 of this Article.

3 Safeguard measures referred to in paragraphs 1 and 2 may be taken by the Commission at the request of a Member State or on its own initiative. If the Commission receives such a request from a Member State, it shall take a decision thereon within five working days following receipt of the request.

The Member States shall be notified of such safeguard measures, which shall be immediately applicable.

Decisions taken by the Commission pursuant to paragraphs 1 and 2 may be referred to the Council by any Member State within five working days of the date on which they were notified. The Council shall meet without delay. It may, acting by qualified majority, amend or repeal the decision in question within one month following the date on which it was referred to the Council.

4 Where the Commission considers that any safeguard measure taken in accordance with paragraphs 1 or 2 should be revoked or amended, it shall proceed as follows:

- a where the measure was enacted by the Council, the Commission shall propose to the Council that it be revoked or amended. The Council shall act by qualified majority;
- b in all other cases, Community safeguard measures shall be revoked or amended by the Commission.

#### *Article 39*

### **Suspension of inward processing arrangements**

1 Where the Community market is disturbed or is liable to be disturbed by inward processing arrangements, the Commission may at the request of a Member State or on its own

initiative fully or partially suspend the use of inward processing arrangements for products covered by this Regulation. If the Commission receives a request from a Member State, it shall take a decision thereon within five working days following receipt of the request.

The Member States shall be notified of such measures, which shall be immediately applicable.

Measures decided on by the Commission pursuant to the first subparagraph may be referred to the Council by any Member State within five working days of the date on which they were notified. The Council shall meet without delay. It may, acting by qualified majority, amend or repeal the measures in question within one month following the date on which they were referred to the Council.

2 To the extent necessary for the proper functioning of the common organisations of the market for the products covered by this Regulation, the use of inward processing arrangements for those products may be fully or partially prohibited by the Council, acting in accordance with the procedure laid down in Article 37(2) of the Treaty.

## CHAPTER III

### Exports

#### *Section I*

#### ***Export licences***

##### *Article 40*

#### **Optional export licence systems**

1 The Commission may decide that exports from the Community of products covered by this Regulation shall be subject to presentation of an export licence.

2 Articles 29, 30 and 31 shall apply *mutatis mutandis*.

3 Detailed rules for the application of this Article, including the terms of validity of the licences and the rate of security, shall be adopted in accordance with the procedure referred to in Article 46(2) of Regulation (EC) No 2200/96.

#### *Section II*

#### ***Suspension of outward processing***

##### *Article 41*

#### **Suspension of outward processing arrangements**

1 Where the Community market is disturbed or is liable to be disturbed by outward processing arrangements, the Commission may at the request of a Member State or on its own initiative fully or partially suspend the use of outward processing arrangements for the products

covered by this Regulation. If the Commission receives a request from a Member State, it shall take a decision thereon within five working days following receipt of the request.

The Member States shall be notified of such measures, which shall be immediately applicable.

Measures decided on by the Commission pursuant to the first subparagraph may be referred to the Council by any Member State within five working days of the date on which they were notified. The Council shall meet without delay. It may, acting by qualified majority, amend or repeal the measures in question within one month following the date on which they were referred to the Council.

2 To the extent necessary for the proper functioning of the common organisations of the market in the products covered by this Regulation, the use of outward processing arrangements for those products may be fully or partially prohibited by the Council, acting in accordance with the procedure laid down in Article 37(2) of the Treaty.

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- (1) [OJ L 67, 10.3.1994, p. 89](#). Regulation as last amended by Regulation (EC) No 427/2003 ([OJ L 65, 8.3.2003, p. 1](#)).
- (2) [OJ L 349, 31.12.1994, p. 53](#). Regulation as last amended by Regulation (EC) No 2200/2004 ([OJ L 374, 22.12.2004, p. 1](#)).