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COMMISSION IMPLEMENTING REGULATION (EU) No 1333/2011

of 19 December 2011

laying down marketing standards for bananas, rules on the verification of compliance with those marketing standards and requirements for notifications in the banana sector

(codification)

(OJ L 336, 20.12.2011, p. 23)

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**COMMISSION IMPLEMENTING REGULATION (EU)
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**laying down marketing standards for bananas, rules on the
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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)⁽¹⁾, and in particular Article 121(a) and Article 194, in conjunction with Article 4 thereof,

Whereas:

- (1) Commission Regulation (EC) No 2257/94 of 16 September 1994 laying down quality standards for bananas⁽²⁾, Commission Regulation (EC) No 2898/95 of 15 December 1995 concerning verification of compliance with quality standards for bananas⁽³⁾ and Commission Regulation (EC) No 239/2007 of 6 March 2007 laying down detailed rules for the application of Regulation (EEC) No 404/93 as regards the requirements for communications in the banana sector⁽⁴⁾ have been substantially amended⁽⁵⁾. In the interests of clarity and rationality the said Regulations should be codified by assembling them in a single act.
- (2) Regulation (EC) No 1234/2007 makes provision for laying down marketing standards for bananas. The purpose of those standards is to ensure that the market is supplied with products of uniform and satisfactory quality, in particular in the case of bananas harvested in the Union, for which efforts to improve quality should be made.
- (3) Given the wide range of varieties marketed in the Union and of marketing practices, minimum standards should be set for unripened green bananas, without prejudice to the later introduction of standards applicable at a different marketing stage. The characteristics of fig bananas and the way in which they are marketed are such that they should not be covered by the Union standards.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 245, 20.9.1994, p. 6.

⁽³⁾ OJ L 304, 16.12.1995, p. 17.

⁽⁴⁾ OJ L 67, 7.3.2007, p. 3.

⁽⁵⁾ See Annex V.

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- (4) It seems appropriate, in view of the objectives pursued, to allow the banana-producing Member States to apply national standards within their territory to their own production but only at stages subsequent to unripened green bananas, provided those rules are not in conflict with Union standards and do not impede the free circulation of bananas in the Union.
- (5) Account should be taken of the fact that, because climatic factors make production conditions difficult in Madeira, the Azores, the Algarve, Crete, Lakonia and Cyprus, bananas there do not develop to the minimum length laid down. In those cases such bananas should still be allowed to be marketed, but only in Class II.
- (6) Measures should be adopted to ensure uniform application of the rules on marketing standards for bananas, in particular as regards conformity checks.
- (7) While taking due account of the nature of a highly perishable product and of the marketing practices and inspection procedures used in the trade, it should be laid down that checks on conformity are to be carried out in principle at the stage to which the standards apply.
- (8) A product which has satisfied checks at that stage is deemed to comply with the standards. That assessment should be without prejudice to any unannounced checks carried out subsequently up to the ripening depot stage.
- (9) The check on conformity should not be systematic but random, by assessment of an overall sample taken at random from the lot selected for checking by the competent body and assumed to be representative of that lot. For that purpose, the appropriate provisions of Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽¹⁾ apply.

⁽¹⁾ OJ L 157, 15.6.2011, p. 1.

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- (10) The banana trade is subject to strong competition. The traders concerned have themselves introduced strict checks. Checks should not, therefore, be carried out at the stage laid down on traders who offer suitable guarantees as regards staff and handling facilities and who can guarantee that the bananas they market in the Union conform with Union standards. Such exemptions should be granted by the Member State on the territory of which the check is in principle to be carried out. Such exemptions should be withdrawn where the standards and conditions relating thereto are not met.
- (11) In order for checks to be carried out, information should be supplied to the competent bodies by the traders concerned.
- (12) The certificate of conformity issued upon completion of the checks should not constitute an accompanying document for the bananas up to the final stage of marketing, but a document of proof of the conformity of the bananas with Union standards up to the ripening depot stage, in accordance with the scope of the standard, to be presented at the request of the competent authorities. It should be stressed that bananas not conforming with the standards laid down in this Regulation may not be marketed for fresh consumption in the Union.
- (13) In order to monitor how the banana market functions, it is necessary for the Commission to receive information on the production and marketing of bananas produced in the Union. Rules covering the notification of such information by Member States should be laid down.
- (14) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

MARKETING STANDARDS

Article 1

The marketing standards applicable to bananas falling within CN code 0803 00, excluding plantains, fig bananas and bananas intended for processing, are laid down in Annex I.

Those marketing standards shall apply to bananas originating in third countries at the stage of release for free circulation, to bananas originating in the Union at the stage of first landing at a Union port, and to bananas delivered fresh to the consumer in the producing region at the stage of leaving the packing shed.

▼B*Article 2*

The marketing standards referred to in Article 1 shall not affect the application, at later stages of marketing, of national rules which:

- (a) do not impede the free circulation of bananas originating in third countries or other regions of the Union and complying with the marketing standards referred to in Article 1; and
- (b) are not incompatible with the marketing standards referred to in Article 1.

CHAPTER 2

VERIFICATION OF COMPLIANCE WITH MARKETING STANDARDS*Article 3*

Member States shall carry out checks in accordance with this Chapter to verify that bananas falling within CN code 0803 00 excluding plantains, fig bananas and bananas intended for processing conform with the marketing standards referred to in Article 1.

Article 4

Bananas produced in the Union shall be subject to a check on their conformity with the marketing standards referred to in Article 1 before loading onto a means of transport with a view to be marketed fresh. Such checks may be carried out at the packing plant.

Bananas which are marketed outside their region of production shall be subject to spot checks when they are first unloaded elsewhere in the Union.

The checks referred to in the first and second paragraphs shall be carried out subject to Article 9.

Article 5

Before release for free circulation in the Union, bananas imported from third countries shall be subject to checks on their conformity with the marketing standards referred to in Article 1 in the Member State of first unloading in the Union, subject to Article 9.

Article 6

1. The conformity checks shall be carried out in accordance with Article 17 of Implementing Regulation (EU) No 543/2011.

2. For products which, for technical reasons, cannot be checked for conformity upon first unloading in the Union, checks shall be carried out subsequently, at the latest on arrival at the ripening depot and in any case, as regards products imported from third countries, before release for free circulation.

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3. On completion of the conformity check, a certificate drawn up in accordance with Annex II shall be issued for products whose compliance with the standard has been ascertained.

The inspection certificate issued for bananas originating in third countries shall be presented to the customs authorities for release of those products for free circulation in the Union.

4. In the event of non-compliance, point 2.7 of Annex V to Implementing Regulation (EU) No 543/2011 shall apply.

5. Where the competent body has not inspected certain products, it shall place its official stamp on the notification provided for in Article 7 or, failing that, in the case of imported products it shall duly inform the customs authorities by any other appropriate means.

6. Traders shall provide all the facilities required by the competent body for carrying out verifications pursuant to this Chapter.

Article 7

The traders concerned or their representatives, who do not qualify for the exemption provided for in Article 9, shall provide the competent body in good time with all the information necessary for identification of the lots and detailed information on the place and date of packing and shipping for bananas harvested in the Union, the planned place and date of unloading in the Union for bananas from third countries or from Union regions of production and deliveries to ripening depots for bananas which cannot be checked when they are first unloaded in the Union.

Article 8

1. Conformity checks shall be carried out by the departments or bodies designated by the competent national authorities. Such departments or bodies must present suitable guarantees for carrying out such checks, in particular as regards equipment, training and experience.

2. The competent national authorities may delegate responsibility for carrying out conformity checks to private bodies approved for that purpose which:

- (a) have inspectors who have followed a training course recognised by the competent national authorities;
- (b) have the equipment and facilities necessary for carrying out the verifications and analyses required for the checks; and
- (c) have adequate facilities for communicating information.

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3. The competent national authorities shall periodically check the execution and efficiency of conformity checks. They shall withdraw approval where they find anomalies or irregularities which could affect the correct execution of conformity checks or where the requirements are no longer met.

Article 9

1. Traders marketing bananas harvested in the Union or bananas imported from third countries shall not be subject to the checks on conformity with marketing standards at the stages referred to in Articles 4 and 5 where they:

- (a) have staff experienced in marketing standards and handling and inspection facilities;
- (b) keep records of the operations they carry out; and
- (c) present guarantees that the quality of bananas they market conforms with the marketing standards referred to in Article 1.

Traders exempted from checks shall obtain a certificate of exemption in accordance with the specimen shown in Annex III.

2. Exemption from checks shall be granted, at the request of the trader concerned, by the inspection departments or bodies appointed by the competent national authorities of either the Member State of production, for bananas marketed in the Union production region, or the Member State of unloading, for Union bananas marketed elsewhere in the Union and bananas imported from third countries. Exemption from checks shall be granted for a maximum period of three years and shall be renewable. Such exemption shall apply to the whole of the Union market for products unloaded in the Member State which granted the exemption.

Those departments or bodies shall withdraw the exemption where they detect anomalies or irregularities which could affect the conformity of bananas with the marketing standards referred to in Article 1 or where the conditions set out in paragraph 1 are no longer met. Withdrawal shall be either temporary or permanent, according to the gravity of the deficiencies detected.

Member States shall establish a register of banana traders exempted from checks, allocate them a registration number and take appropriate steps to disseminate such information.

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3. The competent departments or bodies of the Member States shall periodically verify the quality of bananas marketed by the traders referred to in paragraph 1 and compliance with the conditions set out therein. Exempted traders shall also provide all the facilities required for carrying out such verifications.

▼M1**▼B***Article 10*

This Regulation shall apply without prejudice to any spot checks carried out subsequently up to the ripening depot stage.

CHAPTER 3
NOTIFICATIONS

Article 11

1. Member States shall notify the Commission in respect of each reporting period of the following:

- (a) the quantity of bananas produced in the Union which are marketed:
 - (i) in their region of production;
 - (ii) outside their region of production;
- (b) the average selling prices on local markets of green bananas produced in the Union which are marketed in their region of production;
- (c) the average selling prices for green bananas at the stage of delivery at first port of unloading (goods not unloaded) in respect of bananas produced in the Union which are marketed in the Union outside their region of production;
- (d) forecasts of the data referred to in points (a), (b) and (c) for the two subsequent reporting periods.

2. The regions of production shall be:

- (a) the Canary Islands;
- (b) Guadeloupe;
- (c) Martinique;
- (d) Madeira, the Azores and the Algarve;
- (e) Crete and Lakonia;
- (f) Cyprus.

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3. The reporting periods for a calendar year shall be:
- (a) January to April inclusive;
 - (b) May to August inclusive;
 - (c) September to December inclusive.

The notifications for each reporting period shall be made at the latest by the fifteenth day of the second month following the reporting period.

4. The notifications referred to in this Chapter shall be made in accordance with Commission Regulation (EC) No 792/2009 ⁽¹⁾.

Article 12

Regulations (EC) No 2257/94, (EC) No 2898/95 and (EC) No 239/2007 are repealed.

References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex VI.

Article 13

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

⁽¹⁾ OJ L 228, 1.9.2009, p. 3.

*ANNEX I***Marketing standards for bananas****I. DEFINITION OF PRODUCE**

This standard applies to bananas of the varieties (cultivars) of *Musa* (AAA) spp., Cavendish and Gros Michel subgroups, as well as hybrids, referred to in Annex IV, intended to be supplied fresh to the consumer after preparation and packaging. Plantains, bananas intended for industrial processing and fig bananas are not covered.

II. QUALITY

This standard defines the quality requirements to be met by unripened green bananas after preparation and packaging.

A. Minimum requirements

In all classes, subject to the special provisions for each class and the tolerances allowed, the bananas must be:

- green and unripened,
- intact,
- firm,
- sound; produce affected by rotting or deterioration such as to make it unfit for consumption is excluded,
- clean, practically free from visible foreign matter,
- practically free from pests,
- practically free from damage caused by pests,
- with the stalk intact, without bending, fungal damage or dessication,
- with pistils removed,
- free from malformation or abnormal curvature of the fingers,
- practically free from bruises,
- practically free from damage due to low temperatures,
- free from abnormal external moisture,
- free from any foreign smell and/or taste.

In addition, hands and clusters (parts of hands) must include:

- a sufficient portion of crown of normal colouring, sound and free from fungal contamination,
- a cleanly cut crown, not beveled or torn, with no stalk fragments.

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The physical development and ripeness of the bananas must be such as to enable them to:

- withstand transport and handling,
- and
- arrive in satisfactory condition at the place of destination in order to attain an appropriate degree of maturity after ripening.

B. Classification

Bananas are classified into the three classes defined below:

(i) 'Extra' class

Bananas in this class must be of superior quality. They must have the characteristics typical of the variety and/or commercial type.

The fingers must be free from defects, apart from slight superficial blemishes not covering a total of more than 1 cm² of the surface of the finger, which must not impair the general appearance of the hand or cluster, its quality, its keeping quality or the presentation of the package.

(ii) Class I

Bananas in this class must be of good quality. They must display the characteristics typical of the variety and/or commercial type.

However, the following slight defects of the fingers are allowed, provided they do not impair the general appearance of each hand or cluster, its quality, its keeping quality or the presentation of the package:

- slight defects in shape,
- slight skin defects due to rubbing and other slight superficial blemishes not covering a total of more than 2 cm² of the surface of the finger.

Under no circumstances may such slight defects affect the flesh of the fruit.

(iii) Class II

This class covers bananas which do not qualify for inclusion in the higher classes but satisfy the minimum requirements specified above.

The following defects of the fingers are allowed, provided the bananas retain their essential characteristics as regards quality, keeping quality and presentation:

- defects of shape,
- skin defects due to scraping, rubbing or other causes, provided that the total area affected does not cover more than 4 cm² of the surface of the finger.

Under no circumstances may the defects affect the flesh of the fruit.

▼ B**III. SIZING**

Sizing is determined by:

- the length of the fruit expressed in centimetres and measured along the convex face, from the blossom end to the point where the peduncle joins the crown,
- the grade, that is the measurement, in millimetres, of the thickness of a transverse section of the fruit between the lateral faces and the middle, perpendicularly to the longitudinal axis.

The reference fruit for measurement of the length and grade is:

- the median finger on the outer row of the hand,
- the finger next to the cut sectioning the hand, on the outer row of the cluster.

The minimum length permitted is 14 cm and the minimum grade permitted is 27 mm.

As an exception to the third paragraph, bananas produced in Madeira, the Azores, the Algarve, Crete, Lakonia and Cyprus which are less than 14 cm in length may be marketed in the Union but must be classified in Class II.

IV. TOLERANCES

Tolerances in respect of quality and size shall be allowed within each package in respect of produce not satisfying the requirements of the class indicated.

A. Quality tolerances**(i) 'Extra' class**

5 % by number or weight of bananas not satisfying the requirements for the 'extra' class but meeting those for Class I, or, exceptionally, coming within the tolerances for that class.

(ii) Class I

10 % by number or weight of bananas not satisfying the requirements of Class I but meeting those for Class II, or, exceptionally, coming within the tolerances for that class.

(iii) Class II

10 % by number or weight of bananas satisfying neither the requirements for Class II nor the minimum requirements, with the exception of produce affected by rotting or any other deterioration rendering it unfit for consumption.

B. Size tolerances

For all classes, 10 % by number of bananas not satisfying the sizing characteristics, up to a limit of 1 cm for the minimum length of 14 cm.

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V. PRESENTATION

A. **Uniformity**

The contents of each package must be uniform and consist exclusively of bananas of the same origin, variety and/or commercial type, and quality.

The visible part of the contents of each package must be representative of the entire contents.

B. **Packaging**

The bananas must be packed in such a way as to protect the produce properly.

The materials used inside the package must be new, clean and of a nature such as to avoid causing any external or internal deterioration of the produce. The use of materials such as, in particular, wrapping papers or adhesive labels bearing commercial indications is allowed provided that the printing and labelling is done with a non-toxic ink or glue.

Packages must be free from any foreign matter.

C. **Presentation**

The bananas must be presented in hands or clusters (parts of hands) of at least four fingers. Bananas may also be presented as single fingers.

Clusters with not more than two missing fingers are allowed, provided that the stalk is not torn but cleanly cut, without damage to the neighbouring fingers.

Not more than one cluster of three fingers with the same characteristics as the other fruit in the package may be present per row.

In the producing regions, bananas may be marketed by the stem.

VI. MARKING

Each package must bear the following particulars in writing, all on the same side, legibly and indelibly marked and visible from the outside:

A. **Identification**

Packer and/or dispatcher	}	Name and address or officially issued or recognised conventional mark.

▼B**B. Nature of produce**

- the word ‘Bananas’ where the contents are not visible from the outside,
- the name of the variety or commercial type.

C. Origin of the product

Country of origin and, in the case of Union produce:

- production area, and
- (optionally) national, regional or local name.


D. Commercial specifications

- class,
- net weight,
- size, expressed as minimum length and, optionally, as maximum length.

E. Official control mark (optional).

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ANNEX II

1. Trader/Importer ⁽¹⁾		Inspection certificate EU No (This certificate is for the exclusive use of inspections departments or bodies)			
2. Packer identified on packaging (if other than the trader/importer)				3. Inspection department or body	
				4. Place of inspection/ country of origin ⁽²⁾	5. Region or country of destination
6. Identification of means of transport		7. Check at destination (where appropriate)	7.A. <input type="checkbox"/> Internal <input type="checkbox"/> Import <input type="checkbox"/> Export		
8. Packaging (number and type)	9. Type of product (variety if the standard so provides)	10. Quality class	11. Total weight in kg gross/net ⁽¹⁾		
12. The abovementioned inspection department or body hereby certifies, following inspection by sampling, that the abovementioned goods corresponded at the time of inspection to the quality standards in force.					
..... Customs Office: entry/exit ⁽¹⁾					
period of validity: days Place and date of issue					
..... Inspector: (name in block capitals)	 Signature			
					
13. Remarks:					

⁽¹⁾ Delete as appropriate.

⁽²⁾ Where the product is re-exported, indicate the origin in box 9.

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ANNEX III

**Certificate of exemption from verification of compliance with marketing standards for
bananas**

Trader exempted:

(name, company name, address)

Registration number issued by the competent inspection department or body:

Competent department or body:

(name, address)

Date of issue of certificate:

Period of validity of certificate:

Signature and/or official stamp of the competent department or body:

▼B*ANNEX IV***List of the main groups, sub-groups and cultivars of dessert bananas marketed in the Union**

Group	Sub-group	Main cultivars (non-exhaustive list)
AA	Sweet fig	Sweet fig, Pisang Mas, Amas Datil, Bocadillo
AB	Ney-Poovan	Ney Poovan, Safet Velchi
AAA	Cavendish	Dwarf Cavendish
		Giant Cavendish
		Lacatan
		Poyo (Robusta)
		Williams Americani Valery Arvis
Gros Michel	Gros Michel ('Big Mike')	
	Highgate	
Hybrids	Flhorban 920	
Pink fig	Figue Rose	
	Figue Rose Verte	
Ibota		
AAB	Fig apple	Fig apple, Silk
	Pome (Prata)	Pacovan Prata Ana
	Mysore	Mysore, Pisang Ceylan, Gorolo

*ANNEX V***Repealed Regulations with list of their successive amendments**

Commission Regulation (EC) No 2257/94
(OJ L 245, 20.9.1994, p. 6)

Commission Regulation (EC) No 1135/96
(OJ L 150, 25.6.1996, p. 38)

Only Article 1 and only as regards the German version

Commission Regulation (EC) No 386/97
(OJ L 60, 1.3.1997, p. 53)

Only Article 1 and only as regards the English and Swedish versions

Commission Regulation (EC) No 228/2006
(OJ L 39, 10.2.2006, p. 7)

Commission Regulation (EC) No 2898/95
(OJ L 304, 16.12.1995, p. 17)

Commission Regulation (EC) No 465/96
(OJ L 65, 15.3.1996, p. 5)

Commission Regulation (EC) No 1135/96
(OJ L 150, 25.6.1996, p. 38)

Only Article 2 and only as regards the English version

Commission Regulation (EC) No 386/97
(OJ L 60, 1.3.1997, p. 53)

Only Article 2 and only as regards the Spanish version

Commission Regulation (EC) No 239/2007
(OJ L 67, 7.3.2007, p. 3)

Commission Regulation (EU) No 557/2010
(OJ L 159, 25.6.2010, p. 13)

Only Article 6



ANNEX VI

Correlation Table

Regulation (EC) No 2257/94	Regulation (EC) No 2898/95	Regulation (EC) No 239/2007	This Regulation
Article 1	—	—	Article 1
Article 2, introductory part	—	—	Article 2, introductory part
Article 2, first indent	—	—	Article 2(a)
Article 2, second indent	—	—	Article 2(b)
Article 3	—	—	Article 13
Annex I	—	—	Annex I
Annex II	—	—	Annex IV
—	Article 1	—	Article 3
—	Article 2	—	Article 4
—	Article 3	—	Article 5
—	Article 4	—	Article 6
—	Article 5	—	Article 7
—	Article 6	—	Article 8
—	Article 7	—	Article 9
—	Article 8	—	Article 10
—	Article 9	—	—
—	Annex I	—	Annex II
—	Annex II	—	Annex III
—	—	Article 1	Article 11
—	—	Article 2	—
—	—	Article 3	—
—	—	—	Article 12
—	—	—	Annex V
—	—	—	Annex VI