No L 151/6 Official Journal of the European Communities 7. 7. 71

COUNCIL REGULATION (EEC) No 1428/71

of 2 July 1971

defining the conditions for the implementation of protective measures to products processed from fruit and vegetables

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1427/71 of 2 July 1971 introducing protective measures for products processed from fruit and vegetables [1], and in particular Article 1 (1) thereof,

Having regard to the proposal from the Commission,

Whereas Regulation (EEC) No 1427/71 provides for the possibility of appropriate measures being taken if, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 of Council Regulation (EEC) No 865/68 of 28 June 1968 on the common organization of the market in products processed from fruit and vegetables [2], as last amended by Regulation (EEC) No 1425/71 [3], experiences or is threatened with serious disturbances which may endanger the objectives of Article 39 of the Treaty; whereas these measures relate to trade with third countries and must cease to be applied when the disturbances or threat of disturbances have ended;

Whereas criteria should be laid down enabling an assessment to be made as to whether, in the Community, the market is seriously disturbed or threatened with such disturbance;

Whereas recourse to protective measures depends upon the influence on the Community market of trade with third countries; whereas it is thus necessary, in assessing the situation of the Community market, to take account not only of the characteristics of the market itself but also of factors having a bearing on the development of such trade;

Whereas the measures which can be taken in implementation of Article 1 of Regulation (EEC) No 1427/71 should be defined; whereas these measures must be such as will correct serious disturbances of the market and eliminate the threat of such disturbances; whereas they must be appropriate to the circumstances to avoid their having other than the desired effect;

Whereas recourse by a Member State to Article 1 of Regulation (EEC) No 1427/71 should be limited to cases where, after an assessment based on the factors referred to above, the market of that State is considered to meet the conditions of the said Article; whereas the measures which may be taken in such cases must be such that no further deterioration of the market takes place and must be of a precautionary nature only; whereas such national measures must therefore be applicable only until the entry into force of a Community decision on the subject;

Whereas it is for the Commission to decide within a period of 24 hours following receipt of a request from a Member State, what Community protective measures are to be taken; whereas, to enable the Commission to assess the market situation as effectively as possible, provisions should be laid down to ensure that it will be informed as promptly as possible of any precautionary measures implemented by a Member State; whereas it should therefore be provided that such measures will be notified to the Commission as soon as they are decided upon and that such notification will be considered as a request within the meaning of Article 1 (2) of Regulation (EEC) No 1427/71,

(1) OJ No L 151, 7. 7. 1971, p. 5.
(2) OJ No L 153, 1. 7. 1968, p. 8.
(3) OJ No L 151, 7. 7. 1971, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

In order to determine whether, by reason of imports or exports, the Community market in one or more of the products referred to in Article 1 of Regulation (EEC) No 865/68 is experiencing or is threatened with serious disturbances which might endanger the objectives of Article 39 of the Treaty, consideration shall in particular be given to:

(a) the volume of the imports or exports effected or planned;

(b) the availability of products on the Community market;

(c) the prices ruling for home-grown products on the Community market or the foreseeable trend of such prices, and in particular any tendency towards an excessive fall or rise in such prices in relation to the prices of recent years;

(d) the prices ruling on the Community market for products coming from third countries, and in particular any tendency towards an excessive fall in such prices if the situation initially referred to occurs because of imports.

Article 2

1. The measures which may be taken in implementation of Article 1 (2) and (3) of Regulation (EEC) No 1427/71, when the situation referred to in paragraph 1 thereof occurs, shall be:

(a) total or partial suspension of imports or of exports;

(b) a system of minimum prices below which imports may be subject to the condition that they be made at a price exceeding the minimum price fixed for the product in question.

2. These measures may be taken only to the extent and for the period strictly necessary. They may apply only to products coming from or going to third countries. They may be restricted to products coming from, originating in or going to specified countries and to products of specified qualities or presentation. They may be restricted to imports going to specific regions of the Community or to exports from such regions.

Article 3

In the implementation of this Regulation, Community commitments under international agreements shall be respected.

Article 4

1. A Member State may, as a precaution, take one or more measures where, following an assessment based on the factors referred to in Article 1, it considers that the situation mentioned in Article 1(1) of Regulation (EEC) No 1427/71 exists in its territory. The precautionary measures shall consist in suspending imports or exports. The provisions of Article 2 (2) shall apply.

2. Precautionary measures shall be notified to the Commission by telex as soon as they are agreed upon. Such notification shall be considered as a request within the meaning of Article 1 (2) of Regulation (EEC) No 1427/71. These measures shall apply only until the entry into force of the Decision taken by the Commission on this basis.

Article 5

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

It shall apply until 30 June 1972.

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

Done at Brussels, 2 July 1971.

For the Council

The President

M. FERRARI-AGGRADI