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REGULATION (EEC) No 2707/72 OF THE COUNCIL

of 19 December 1972

laying down the conditions for applying protective measures for 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 1035/72[1] of 18 May 1972 on the common organisation of the market in fruit and vegetables, as amended by Regulation (EEC) No 2454/72,[2] and in particular Article 29 (1) thereof;

Having regard to the proposal from the Commission;

Whereas Article 29 (1) of Regulation (EEC) No 1035/72 authorises appropriate measures to be taken where, by reason of imports or exports, the Community market in one or more of the products referred to in Article 1 experiences or is threatened with serious disturbances which may endanger the objectives set out in Article 39 of the Treaty, or if the withdrawal or buying-in operations carried out pursuant to Articles 18 or 19 relate to significant quantities of the products listed in Annex III A; whereas those measures relate to trade with third countries and whereas they cease to apply, according to each individual case, either when the disturbance or threat of disturbance disappears, or when there is an appreciable reduction in the quantities withdrawn or bought in;

Whereas, consequently, the principal factors enabling an assessment to be made as to whether the market is threatened with serious disturbances or whether the quantities which have been the subject of intervention may be considered significant should be defined;

Whereas where the use of protective measures depends on the way in which trade with third countries influences the Community market, it is necessary to assess the situation on that market by taking into account the factors which led to the development in such trade, in addition to the characteristics of the market itself;

Whereas where the use of protective measures depends on the size of the withdrawals made on the Community market, the duration of those operations should be taken into account;

Whereas measures which could be taken pursuant to Article 29 of Regulation (EEC) No 1035/72 should be defined; whereas such measures should be of a kind as will bring to an end the disturbances or threat of disturbances arising from trade with third countries; whereas in the case of large withdrawals, such measures should be of a kind as will prevent the situation on the Community market from deteriorating; whereas the measures referred to above should be in keeping with circumstances so that they have none but the desired effect;

Whereas the use, by a Member State, of protective measures should be limited to the case where the market of that State, following an assessment based on the factors referred to above, is considered as satisfying the conditions provided for in the first indent of Article 29 (1) of Regulation (EEC) No 1035/72; whereas the measures which are likely to be taken in such a case should be such as will prevent the situation on the market from deteriorating further; whereas however such measures should be protective; whereas because of their protective character the application of these national measures is only justified until the entry into force of a Community decision on the subject;

Whereas it is for the Commission to decide on the Community protective measures to be taken within twenty-four hours of receiving a request therefore from a Member State; whereas in order to enable the Commission to assess the

[1] OJ No L 118, 20.5.1972, p. 1.
[2] OJ No L 266, 25.11.1972, p. 1.

situation on the market as accurately as possible, it is necessary to lay down provisions which will ensure that the Commission be informed as soon as possible of the protective measures applied by a Member State; whereas, therefore, it should be provided that the Commission be notified of such measures as soon as they have been decided upon, and that such notification should be considered as a request within the meaning of Article 29 (2) of Regulation (EEC) No 1035/72;

HAS ADOPTED THIS REGULATION:

Article 1

In order to determine whether the situation referred to in the first indent of Article 29 (1) of Regulation (EEC) No 1035/72 exists, account shall be taken in particular of:

(a) the actual or probable volume of imports or exports,

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

(c) the prices of domestic products recorded on the Community market, or the probable trend of those prices, and in particular their tendency to fall or rise excessively in relation to basic prices or, with regard to products which do not have basic prices, in relation to the prices of preceding years,

(d) if the situation referred to in the first part exists by reason of imports:
   — the prices on the Community market of products exported from third countries and in particular their tendency to fall excessively,
   — quantities for which withdrawals are or may be effected.

Article 2

For each of the products concerned, in order to determine whether the situation referred to in the second indent of Article 29 (1) of Regulation (EEC) No 1035/72 exists, account shall be taken of the quantities withdrawn or purchased over a period of seven days.

Detailed rules for the application of this Article shall be adopted, in accordance with the procedure laid down in Article 33 of Regulation (EEC) No 1035/72.

Article 3

1. The measures which may be taken pursuant to Article 29 (2) and (3) of Regulation (EEC) No 1035/72 are:
   — when the situation covered by the first indent of paragraph 1 of that Article exists, the suspension of imports or exports or the levying of export taxes;
   — when the situation referred to in the second indent of paragraph 1 of that Article exists, the suspension of imports or the levying of an additional amount equal to 50% of the difference between the basic price and the price referred to in the first indent of Article 18 (1) (a) of Regulation (EEC) No 1035/72. This additional amount shall be added to the customs duties and to the countervailing charges, if any, which may have been introduced pursuant to Article 25 of Regulation (EEC) No 1035/72.

2. Such measures may only be taken in so far, and for as long, as they are strictly necessary.

3. The measures provided for in paragraph 1 shall take account of the special position of products in transit to the Community. They shall apply only to products exported from, or intended for, third countries. They may be limited to products exported from, originating in, or intended for certain countries, or to certain qualities, size grades or groups.

As regards the measures provided for in the first indent of paragraph 1, they may be limited to imports intended for certain areas of the Community or to exports from such areas.

Article 4

1. A Member State may take one or more protective measures when it considers that, having made an assessment based on the factors referred to in Article 1, the situation covered by the first indent of Article 29 (1) of Regulation (EEC) No 1035/72 exists.

The protective measures shall be:

(a) the suspension of imports or exports,

(b) the requirement of payment of export taxes or the giving of security in respect thereof.

The measure referred to under (b) shall not involve the collection of taxes unless a decision has been taken to that effect pursuant to Article 29 (2) or (3) of Regulation (EEC) No 1035/72.

The provisions of Article 3 (3) of this Regulation shall apply.

2. The Commission shall be notified by telex of the protective measures which have been decided on. Such notification shall be deemed a request within the meaning of Article 29 (2) of Regulation (EEC) No 1035/72. Such measures shall only be applicable until the entry into force of the decision taken by the Commission accordingly.

Article 5

Article 28 of Regulation (EEC) No 1035/72 shall apply in cases where it is decided to collect an additional amount in accordance with the second indent of Article 3 (1).

Article 6

Council Regulation (EEC) No 2514/69[1] of 9 December 1969 laying down the conditions for applying protective measures to fruit and vegetables is, according to the products concerned, repealed with effect from the dates fixed in the second subparagraph of Article 7.

Article 7

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

It shall apply as from the beginning of the 1973/74 marketing year in respect of each of the products concerned.

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

Done at Brussels, 19 December 1972.

For the Council

The President

P. LARDINOIS

[1] OJ No L 318, 18.12.1969, p. 8.