REGULATION (EEC) No 1927/75 OF THE COUNCIL

of 22 July 1975

concerning the system of trade with third countries in the market in products processed from fruit and vegetables

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof;

Having regard to Council Regulation (EEC) No 865/68 (1) of 28 June 1968 on the common organization of the market in products processed from fruit and vegetables, as last amended by Regulation (EEC) 1420/75 (2), and in particular Article 7 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament (3);

Whereas the establishment of a system of trade with third countries in the sector of products processed from fruit and vegetables calls for the elimination of quantitative restrictions and measures of equivalent effect in trade with third countries;

Whereas it is nevertheless necessary to limit any risks attendant upon the abolition in trade with third countries of all quantitative restrictions or measures of equivalent effect; whereas provision should therefore be made to include the products in question in the field of application of Council Regulation (EEC) No 109/70 (4) of 19 December 1969 establishing common rules for imports from State trading countries and of Council Regulation (EEC) No 1439/74 (5) of 4 June 1974 on common rules for imports from third countries;

Whereas provision should furthermore be made in respect of sensitive products for the establishment of a system of import certificates or a minimum price system which importers must undertake to observe; whereas for the proper working of these systems it is necessary to provide for the issue of import certificates and that at the same time a security shall be lodged guaranteeing the undertaking to import during the period of validity of the certificates and that a further security shall be lodged guaranteeing that the minimum price will be respected by the importers; whereas provision should furthermore be made for the possibility of establishing a floor price system;

Whereas the machinery thus established may prove inadequate in exceptional circumstances; whereas to ensure that in such cases the Community market is not left completely exposed to the disturbances which might result, the means should be provided for appropriate action to be taken as quickly as possible,

HAS ADOPTED THIS REGULATION:

Article 1

1. Save as otherwise provided for in Regulation (EEC) No 865/68 and in this Regulation or derogation decided upon by the Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, the application of any quantitative restriction or measure with equivalent effect is prohibited in trade with third countries covering all the products listed in Article 1 of Regulation (EEC) No 865/68.

2. However, with respect to citrus fruit juices falling under subheading ex 20.07 of the Common Customs Tariff, with the exception of grapefruit juice, Member States may maintain until 31 December 1977 the measures relating to the import of these products originating in third countries which were applicable on 1 January 1975 without, however, rendering them more restrictive, the Council deciding before the end of this period on the system to be introduced subsequently. If no decision is taken before this date, the previous system will remain applicable.

3. With respect to prunes falling under subheading 08.12 C of the Common Customs Tariff, Member States may maintain until 31 December 1977, the measures concerning the import of these products originating in third countries, which were applicable on 1 January 1975 without, however, making them more restrictive. From 1 January 1978, paragraph 1 shall apply, and imports shall be subject to the presentation of an import certificate in accordance with Article 4.

4. This Regulation shall not apply to products processed from potatoes, referred to in Article 1 of Regulation (EEC) No 865/68.

5. For tomato concentrates under subheading 20.02 C of the Common Customs Tariff paragraph 1 shall be applicable only from the date fixed for the first implementation of the minimum price for the products in question.

(1) OJ No L 153, 1. 7. 1968, p. 8.
(2) OJ No L 141, 3. 6. 1975, p. 1.
(3) OJ No C 40, 8. 4. 1974, p. 74.
(4) OJ No L 19, 26. 1. 1970, p. 1.
(5) OJ No L 159, 15. 6. 1974, p. 1.

With respect to preserved pineapples, the said paragraph shall apply as from the granting of aid for the production of preserved pineapples.

Article 2

1. A minimum import price for tomato concentrates falling within subheading 20.02 C of the Common Customs Tariff shall be fixed each year before 1 April for the subsequent marketing year.

However, the minimum price for the 1975/76 marketing year shall be fixed before 1 August 1975.

2. The minimum price shall be established taking into account :

— average production cost for the Community product during the period from the beginning of the second year preceding the year of its fixing until the date of such fixing,
— free-at-frontier prices for imports during the period from the beginning of the second year preceding the year of its fixing until the date of such fixing, disregarding import prices which, in comparison with normal fluctuations, are excessively high or low ; these prices shall be increased by whatever Common Customs Tariff duties are applicable,
— the prices for the products in question on the main world markets,
— the need to prevent the application of the minimum price from having a more restrictive effect on trade than measures previously applied by the Member States,
— the need to ensure that the application of the minimum price contributes to the normal and harmonious development of competition with third countries.

3. A special minimum price shall be fixed for imports into the new Member States until 31 December 1977, at the same time as the minimum price referred to in paragraph 1. The special minimum price shall be determined initially on the basis of the price level resulting from the Agreement in the form of exchange of letters relating to Article 3 of Protocol 8 to the Agreement between the European Economic Community and the Republic of Portugal (1).

This special minimum price shall be aligned by stages with the minimum price mentioned in paragraph 1.

The alignment shall take place each year and for the first time on 1 July 1976, by increasing the special minimum price by one third and one half, successively, of the difference between this price obtaining before each alignment and the minimum price applicable for the coming marketing year.

The minimum price referred to in paragraph 1 shall apply in the new Member States by 1 January 1978 at the latest.

(1) OJ No L 62, 7. 3. 1975, p. 6.

4. 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 fix the minimum price and the special minimum price for a product with given commercial characteristics, in particular in respect of variety, quality, composition, preparation, packaging and size, and shall also fix the date on which such prices are to apply.

5. The coefficients to be applied to these prices in order to allow for any variation from, in particular, the variety, quality, composition, preparation, packaging and the size for which they have been fixed, shall be adopted in accordance with the procedure laid down in Article 15 of Regulation (EEC) No 865/68.

6. If required, detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 15 of Regulation (EEC) No 865/68.

Article 3

1. The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, may decide to introduce a floor price system.

2. Where paragraph 1 is applied, the floor price shall be established taking into account :

— free-at-frontier prices for imports during the period from the beginning of the second year preceding the year of its fixing until the date of such fixing, disregarding import prices which, in comparison with normal fluctuations, are excessively high or low ; these prices shall be increased by whatever Common Customs Tariff duties are applicable ; however, as regards the new Member States these prices shall be increased until 31 December 1977 by the duties applied by those Member States to third countries in accordance with Article 59 of the Act of Accession ;
— the prices for the products in question on the main world markets ;
— the need to prevent the application of the floor price from having a more restrictive effect on trade than measures previously applied by the Member States ;
— the need to ensure that the application of the floor price contributes to the normal and harmonious development of competition with third countries.

Article 4

1. Any imports into the Community of the products listed in the Annex shall be subject to the production of an import certificate which shall be issued by Member States to any interested party who applies for such certificate irrespective of his place of establishment within the Community.

The certificate shall be valid for an import transaction carried out within the Community.

2. The issue of an import certificate shall be conditional upon the following :

— with respect to all products, the lodging of a security to guarantee the undertaking to effect certain imports for as long as the certificate is valid, which security, except in cases of *force majeure*, shall be forfeit in whole or in part if the imports are not effected or are effected only in part within the period ;

— for tomato concentrates, the lodging of an additional security to guarantee that the free-at-frontier price of the products to be imported under cover of the certificate plus the customs duty payable thereon shall together be equal to or more than the minimum price or the special minimum price, whichever is appropriate. The security shall be forfeit in proportion to any quantities imported at a price lower than the minimum price or than the special minimum price ; however, the lodging of such additional security shall not be required for products originating in third countries which undertake to and are in a position to guarantee that the price on import into the Community shall be not less than the minimum price for the product in question, and that all deflection of trade will be avoided.

3. The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, may decide to amend the Annex.

The period of validity of certificates and the other detailed rules of application of this Article which may, in particular, make provision for a time limit for the issue of certificates, shall be determined in accordance with the procedure laid down in Article 15 of Regulation (EEC) No 865/68.

Article 5

Where the levy on various added sugars is fixed in advance for one of the products referred to in Article 4 (1), such advance fixing shall be mentioned on the import certificate which is the basis thereof.

Where this is the case, Article 6 of Regulation (EEC) No 865/68 shall not apply.

Article 6

1. The Annex to Regulation (EEC) No 109/70 shall be extended to the products listed in Article 1 of Regulation (EEC) No 865/68 imported from all the countries mentioned in that Annex.

2. The products listed in Article 1 of Regulation (EEC) No 865/68 shall be included in the common list of liberalized products in Annex I to Regulation (EEC) No 1439/74.

3. Paragraphs 1 and 2 shall not apply to the products referred to in Article 1 (2), (3) and (4).

Article 7

1. If, by reason of imports or exports, the Community market in one or more of the products specified in Article 1 (1) is or is likely to be exposed to serious disturbances which might endanger the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbances or the threat thereof has ceased.

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 rules for the application of this paragraph and shall define the cases and the limits within which Member States may take protective measures.

2. Should the situation envisaged in paragraph 1 arise, the Commission, acting either at the request of a Member State or on its own initiative, shall decide what measures are necessary and communicate them to the Member States ; such measures shall be immediately applicable.

Requests received by the Commission from Member States shall be acted upon within 24 hours of receipt.

3. Any measure decided on by the Commission may be referred to the Council by any Member State within three working days following the day on which they were communicated. The Council shall meet without delay. It may, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, amend or annul the measure in question.

Article 8

Council Regulation (EEC) No 1427/71 [1] of 2 July 1971, introducing protective measures for products processed from fruit and vegetables is hereby repealed.

Article 9

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

It shall be applicable as from 1 September 1975 in respect of tomato concentrates, peeled tomatoes and tomato juice and as from 1 October in respect of the other products referred to in Article 1.

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[1] OJ No L 151, 7. 7. 1971, p. 5.

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

Done at Brussels, 22 July 1975.

For the Council

The President

G. MARCORA

ANNEX

CCT heading No	Description
ex 20.02 C	Tomato concentrates
ex 20.02 C	Peeled tomatoes
ex 20.06 B	Peaches in syrup
ex 20.07 B	Tomato juice
20.02 A	Mushrooms
ex 20.06 B	Pears
08.12 C	Prunes (1)
ex 20.02 G	Peas
ex 20.02 G	Beans in pod
ex 08.10 A ex 08.11 E ex 20.03 ex 20.05 ex 20.06 B II	Raspberries

(1) From 1 January 1978.