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COMMISSION REGULATION (EEC) No 2251/92 of 29 July 1992 on quality inspection of fresh fruit and vegetables

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COMMISSION REGULATION (EEC) No 2251/92
of 29 July 1992
on quality inspection of fresh fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables ([1]), as last amended by Regulation (EEC) No 1754/92 ([2]), and in particular Articles 3 (5), 8, 10 (1) and 12 (3) thereof,

Whereas Regulation (EEC) No 1035/72 stipulates that conformity checks must be carried out by sampling to ensure that fruit and vegetables for which quality standards have been laid down effectively comply with those standards; whereas all the existing provisions concerning inspections should be grouped in a single Regulation; whereas Commission Regulations No 80/63/EEC of 31 July 1963 on quality inspection of fruit and vegetables imported from third countries ([3]), as last amended by Regulation (EEC) No 3078/89 ([4]), No 93/67/EEC of 3 May 1967 laying down initial provisions on quality control of fruit and vegetables marketed within the Community ([5]), as last amended by Regulation (EEC) No 2122/86 ([6]), (EEC) No 2638/69 of 24 December 1969 laying down additional provisions on quality control of fruit and vegetables marketed within the Community ([7]) and (EEC) No 496/70 of 17 March 1970 laying down initial provisions on quality control of fruit and vegetables exported to third countries ([8]) should therefore be repealed;

Whereas a single inspection method with well-defined components must be applicable at all marketing stages, regardless of the marketing channels followed by fruit and vegetables produced in the Community and subject to conformity inspection; whereas any lot of the goods in question could potentially be inspected; whreas whereas the conditions on which goods are to be rejected must be specified;

Whereas the competent body or bodies designated by the Member State are responsible for carrying out conformity inspections and must, as a rule, carry out the said inspections; whereas, however, in the interests of efficiency and in order to take account of the different situations to be found in the different Member States, provision should be made, subject to certain conditions, for authority to be transferred to approved private bodies or for centralized inspection centres to be used or for operators to be granted exemption provided they offer the necessary guarantees;

Whereas implementation of the inspection arrangements, including exemptions from inspection, requires that all operators and importers in the marketing chain be known; whereas, therefore, provision should be made for a register for this purpose, whereas the carrying out of inspection operations requires that information on the said operations be made available to the competent authorities; whereas, however, exemption from inspection must automatically entail exemption from this requirement;

Whereas the Community rules apply to imports from third countries; whereas imports must therefore comply with Community quality standards or equivalent standards and the Community inspection method must be applied to them; whereas certain third countries may have the

([1]) OJ No L 118, 20. 5. 1972, p. 1.
([2]) OJ No L 180, 1. 7. 1992, p. 23.
([3]) OJ No 121, 3. 8. 1963, p. 2137/63.
([4]) OJ No L 294, 13. 10. 1989, p. 18.
([5]) OJ No 90, 10. 5. 1967, p. 1765/67.
([6]) OJ No L 185, 8. 7. 1986, p. 11.
([7]) OJ No L 327, 30. 12. 1969, p. 33.
([8]) OJ No L 62, 18. 3. 1970, p. 11.

▼B

products which they export to the Community inspected by their own authorities, on the spot or on arrival, provided that they satisfactorily guarantee that the standards have been complied with; whereas in the interests of good administrative and commercial practice, provision should therefore be made for the approval, at their request, of the inspection authorities of the exporting third countries concerned, where they meet certain requirements;

Whereas care should be taken that Community and imported products which are not required to meet the standards and are intended for processing are not disposed of on the market in products for consumption in the fresh state; whereas, to that end, such products should be accompanied by a processing certificate certifying their end-use and enabling that use to be checked;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

Member States shall carry out conformity checks as laid down in Articles 8, 9, 11 and 12 of Regulation (EEC) No 1035/72, in accordance with the provisions of this Regulation.

Article 2

The following definitions shall apply for the purposes of this Regulation:

(a) 'conformity check' means any physical check or administrative formality carried out, following the method and procedure laid down in this Regulation, in order to ascertain whether fruit and vegetables meet the common quality standards, by specialist officials of the competent agencies appointed the Member States;

(b) 'identity check' means any check that products are correctly specified in the accompanying documents or certificates;

(c) 'competent agency' means the agency or agencies designated by a Member State to carry out the conformity checks referred to in Article 1;

(d) 'inspector' means a suitably trained official duly authorized by the competent agency to carry out conformity checks;

(e) 'goods' means the quantity of products to be sold by a given trader which is present when inspection is carried out. Such goods may be identified by a document and may consist of one or more types of product and one or more lots;

(f) 'lot' means a quantity of products that when inspected is presented as uniform as regards:

— identity of packer and/or consignor,
— country of origin,
— type of product,
— quality class,
— variety or commercial type (where appropriate),
— packaging and presentation,
— size (where appropriate);

(g) 'package' means individually packaged part of a lot, including contents;

(h) 'trader' means any natural or legal person presenting goods originating in Community or in free circulation within the Community, with a view to their marketing in the Community's territory and/or export to third countries;

▼B

(i) 'importer' means any natural or legal person presenting goods from third countries for entry into the customs territory of the Community;

(j) 'packing station' means any place where sorting, sizing, packing, marking and, where applicable, cold storage of produce takes place;

(k) 'border inspection post' means any inspection post, covering a port or airport or a road or railway line, that performs inspections on entry into the customs territory of the Community. It must be designed and provide facilities so that such inspection and communication with parties presenting goods and with other border inspection posts in the Community can be carried out in the quickest and most efficient manner possible;

(l) 'sampling' means temporary removal of a certain quantity of produce ('sample') when a conformity check is made;

(m) 'primary sample' means package removed from a lot; for bulk produce, quantity removed at one place in a lot;

(n) 'bulk sample' means a number of primary samples representative of a lot and sufficient in quantity to permit assessment of it ba all criteria;

(o) 'reduced sample' means a representative quantity taken from a bulk sample, of sufficient size to permit assessment of it by certain criteria; a number of reduced samples may be taken from a bulk sample.

CHAPTER I

Method of inspection

Article 3

1. A conformity check shall be carried out by assessment of a bulk sample taken at random from different places in the lot selected for inspection and assumed to be representative of that lot.

2. The inspector shall indicate the lot(s) and packages in the lot that he wishes to examine or, for bulk produce, the places in the lot from where the samples are to be taken. The trader or importer responsible for the goods or his representative must present the samples requested and provide all the information needed for identification of the goods or of the lots of which they consist. If reduced samples are needed so that a more thorough check can be made, the inspector shall select them from the bulk sample.

3. Lots shall be identified by means of the indications or marks laid down under Council Directive 89/396/EEC ([1]).

If goods are made up of a number of lots, the inspector must check the identity of each of the lots in order to determine to what extent they tally with the information given in the accompanying documents or declarations.

However, in the event of difficulty in differentiating lots, all lots that are uniform as to type of produce, traders or importers concerned, country of origin, quality class and, where appropriate, variety, size or commercial type, may be treated as a single lot.

4. The checks on the lot shall comprise in particular:

— an assessment of packaging and the presentation, using primary samples, to ascertain whether packaging has been carried out properly using clean material of the correct specification and that the presentation is correct,

([1]) OJ No L 186, 30. 6. 1989, p. 21.

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— a check that the marking is correct, using samples,

— a check that the products themselves are in conformity: the inspector shall decide on the size of the bulk sample he needs for assessment of the lot.

If, on the basis of his checks, the inspector is unable to take a decision, he may make a second inspection in order to obtain a result consisting of the average yielded by the two inspections.

5. The produce to be inspected must be completely removed from its packaging. For prepackaged products the inspector may however dispense with this if the type and nature of the packaging are such that the contents can be checked without unwrapping. Uniformity, minimum requirements and quality and size classification must be checked from the bulk sample. If defects are found the inspector shall determine their percentage according to the number of items or the weight of produce not meeting the standard.

6. If the inspection operations are liable to affect the quality of the products, the inspector must check for internal defects using reduced samples, of a size limited to the minimum quantity necessary to assess the lot. Where such internal defects are found or suspected, the size of the reduced sample may not be more than 10 % of that of the bulk sample initially made up for inspection.

7. For assessing ripeness the inspector may use the instruments and methods specified for the purpose in the common quality standards.

In the case of apples, the competent body may refer to a colorimetric scale and/or apply a starch regression test (iodine test) in order to verify that the requirement laid down in the quality standards for apples and pears under the first indent of the last subparagraph of Title II A ►**M1** of Annex III to Commission Regulation (EEC) No 920/89 ◄ [1] is met.

8. Where inspections are carried out at a stage other than consignment, the inspector shall take into account the fact that transport, even under conditions appropriate to the nature of the product, may result in a slight loss of the freshness and turgidity displayed at the time of consignment, except for products in the Extra class.

9. On completion of inspection, the inspector shall take a decision on the basis of the results of the check made as specified in paragraph 4.

If he finds that the lot satisfies the Community provisions in force for the product, he shall issue the inspection certificate provided for in Annex I. If not, he shall notify the trader and/or importer or his representative in writing of the defects. Where the latter decides to bring the goods into conformity, the inspector shall issue a certificate once he finds that this has been done.

10. In the event of a decision that the goods are not in conformity, a new sample should relate to at least the following minimum quantities [2]:

Packed produce

Number of packages in lot	Number of packages to be taken (primary samples)
up to 100	5
101 to 300	7
301 to 500	9
501 to 1 000	10
more than 1 000	15 (minimum)

[1] OJ No L 97, 11. 4. 1989, p. 19.
[2] These quantities shall not apply at the retail stage.

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Bulk produce

Weight of lot in kg or number of units in lot	Weights in kg of primary samples or number of units to be taken (1)
►C1 up to 200 ◄	10
201 to 500	20
501 to 1 000	30
1 001 to 5 000	60
more than 5 000	100 (minimum)

(1) For large fruit and vegetables (more than 2 kg per dem), the primary samples must consist of a minimum of five items.

11. If a Member State wishes to try a method of sampling other than that provided for in paragraph 10, the Commission may decide to allow that method to be applied in the Member State in question subject to conditions which the Commission shall determine. In such cases, the Commission shall inform the other Member States.

12. Where the goods are not brought into conformity, the inspector shall make out a statement specifying the criteria not fulfilled and shall take action to ensure that the goods in question are not marketed for consumption as fresh produce.

To this end, the inspector shall issue a document certifying that the goods have not been marketed for consumption as fresh produce and shall specify the measures adopted to ensure compliance with this prohibition.

13. On completion of an inspection the bulk sample shall be returned to the trader and/or importer or his representative.

The competent agency shall be under no obligation to restore those parts of the bulk sample destroyed during inspection.

CHAPTER II

Conformity checks of fruit and vegetables produced in the Community

Article 4

1. Fruit and vegetables produced in the Community and intended for consumption in the fresh state on the internal market or for export shall be subject to conformity checking, either at the packing/loading station and, if unavoidable, during the process of consignment, or at a designated inspection centre and at destination at the wholesale selling point or in distribution centres.

2. With a view to carrying out inspections as referred to in this Article, traders or their representatives shall make available to the competent agency all necessary information. Such information shall include identification of the produce and details of the place and the period during which the consignment(s) are to be dispatched, and of the destination.

Traders meeting the conditions laid down in Article 6 (1) shall be exempt from this requirement.

3. Notwithstanding paragraphs 1 and 2, Member States may exempt from notification and inspection goods weighing 500 kg per product or less.

4. The inspection certificate referred to in Article 3 (9) shall be issued in cases where fruit and vegetables are to be exported.

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Article 5

1. Member States shall designate the competent agency or agencies responsible for conformity checking. Such agencies may however delegate their powers wholly or in part to private agencies or instruct such agencies to carry out the checks. Approval shall be for a three-year period following an invitation to tender by the Member State addressed to private agencies with:

(a) inspectors who have followed a training course approved by the competent agency;

(b) equipment and installations to make the checks and analyses that inspection will require;

(c) suitable communications facilities.

2. The competent agency shall check periodically on the execution, the number and efficiency of inspections made by approved agencies.

It shall withdraw approval if it finds anomalies or irregularities casting doubt on the due execution and efficiency of inspections or if the requirements are no longer met.

Approval may be renewed for a further period of three years.

3. Approved agencies shall:

(a) provide all facilities required for making inspections and all information requested for the purposes of checks by the competent agency;

(b) forward, before 31 January of each year, a list of the traders on whose goods it has carried out inspections during the previous year and a report giving details of its inspection work and the results obtained.

Article 6

1. The competent agency of a Member State may exempt traders from inspection of goods at the time of consignment and shall issue an exemption certificate to that effect, if the traders in question can guarantee uniform quality of the produce they are marketing and have:

(a) inspection staff who have received training approved by the competent agency;

(b) suitable equipment for preparing and packing produce;

(c) precooling equipment, if the products which they market require this before transport;

(d) a register recording all operations carried out.

Exemptions shall be granted for a period of one year and shall be renewable.

2. The competent agency shall regularly check the quality of the produce consigned by exempted traders.

It shall withdraw an exemption from inspection if it finds anomalies or irregularities casting doubt on the conformity of the product or if the requirements listed in paragraph 1 are no longer met.

Exempted traders shall grant the competent agency all facilities necessary for its verification checks.

3. Exempted traders shall affix a label (in accordance with the specimen in Annex III) on each package consigned, bearing their registration number as referred to in Article 11 (3).

Article 7

Inspection centres

Member States may provide for conformity checks to be carried out by the competent agency at inspection centres designated by the competent authority.

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Inspection centres must have suitable reception facilities for the purposes of carrying out inspections, comprising, in particular:

— suitable vehicle bays allowing samples to be taken at a number of places in the load,

— refrigerated areas for packages unloaded from vehicles,

— suitable communications facilities,

— equipment and installations to make the checks and analyses that inspection will require.

Inspections must be carried out with all speed, in accordance with the method specified in Article 3.

CHAPTER III

Conformity checks of fruit and vegetables for importation into the Community

Article 8

1. Before being admitted into Community territory, fruit and vegetables from third countries intended to be consumed fresh and for which there are common quality standards shall be subject to a conformity check to determine whether the goods meet the common quality standards or at least equivalent standards in the case of third countries other than European third countries or non-European third countries in the Mediterranean region.

2. The Commission shall establish a correlation table between the quality classes provided for in the standards applied in the countries in question and those provided for in the common quality standards.

Article 9

1. Where the official inspection authorities of third countries have been previously approved, goods shall be subject to conformity checking before being exported to the Community.

The list of approve official authorities shall be adopted in accordance with the procedure laid down in Article 33 of Regulation (EEC) No 1035/72. This list shall be supplemented or amended by the Commission.

2. The approval referred to in paragraph 1 shall be granted to the official authorities of third countries which so request, and on whose territory the common quality standards or standards which are at least equivalent, in accordance with Article 8 (1), are met for products exported to the Community.

The official authority must be an officially recognized conformity checking agency which provides satisfactory guarantees, and has at its disposal the necessary staff, equipment and facilities to enable the checks in question to be carried out.

Information about the establishment and transmission of requests for approval shall be made public by way of a Commission notice published periodically in the *Official Journal of the European Communities*, C series.

3. Approval shall be granted for a period of three years and shall be renewable following a thorough check and in particular on-the-spot verification to ensure proper application of the provisions of paragraph 2.

Such approval shall be withdrawn at any time by the Commission if it is found that goods coming from the third country concerned do not meet the standards laid down.

4. Goods coming from third countries in which the official authority has been approved as laid down in paragraph 3 shall be accompanied by an inspection certificate as provided for in Annex I issued by that authority attesting that the said produce conforms to the quality standard for the quality class within which it falls. The certificate shall be deemed to show that the produce complied with the standard at the time

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of export. The competent agencies of the Member States shall regularly verify the conformity of products from third countries. The period of validity of the inspection certificate shall be fixed by the official authority so as to ensure conformity while taking account of the type of produce.

If the inspection certificate is no longer valid, paragraph 5 shall apply.

5. In the case of goods coming from third countries whose official inspection authorities have not been approved, or in the case of goods from third countries whose official authorities have been approved but which, on importation, are not accompanied by an inspection certificate as provided for in Annex I, the customs authorities shall authorize their release for free circulation in the customs territory of the Community only if the goods have been inspected in accordance with Article 3.

In cases where the competent agencies have not inspected certain goods, they shall either affix their stamp to the notification referred to in paragraph 8 and forward the notification to the customs authorities or inform the customs authorities in some other way.

The competent agency may decide not to carry out the abovementioned checks where the goods is to be exported subsequently to a third country.

6. Paragraphs 4 and 5 shall be implemented without prejudice to spot checks carried out at border inspection posts and checks on arrival at wholesale locations or distribution centres.

7. Where, in the case of goods leaving a warehouse after storage or of goods not to be put into free circulation in the territory of the Member State that carried out the check specified in Article 8 (1), a lot is split up, the inspector in charge shall:

— retain the original certificate(s),

— provide the importer or first purchaser with the same number of authenticated copies of the original certificate as the portions into which the lot has been split.

8. The importer or his representative must notify the competent agency of the Member State in good time of the border inspection post at which the goods will be presented for inspection, specifying the nature and volume of the products, the number of lots and the expected date of arrival.

CHAPTER IV

Inspection of produce for processing

Article 10

1. Community products due to be processed outside the region in which they are produced shall be accompanied by a 'processing certificate'as provided for in Annex II, issued by the competent inspection authority, which shall immediately send a copy of the certificate to the inspection authority operating in the region in which the produce is to be processed.

2. Imported products due to be processed in the Community shall be accompanied, prior to being put into free circulation, by a 'processing certificate' as provided for in Annex II, issued by the competent import inspection authority, which shall immediately send a copy of the certificate to the inspection authority operating in the region in which the produce is to be processed.

3. After processing, the processor shall return the certificate to the inspection authority of the region in which processing has been carried out.

4. Inspection may be carried out on the spot and a check made on the accounting documents of the undertaking concerned.

The central offices of the inspection authority issuing the processing certificate shall be notified of any irregularity which might be detected.

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CHAPTER V

Final provisions

Article 11

1. The inspection authority of a Member State on whose territory a lot from another Member State is found not to meet the requirements because of defects or deterioration which could have been detected at the time of packaging shall notify cases of non-conformity discovered up to the wholesale marketing stage within 24 hours to the central offices of the inspection authorities of the other Member States likely to be concerned.

2. Where, on importation from a third country, a lot is found not to meet the requirements because of defects or deterioration which could have been detected at the time of packaging, the inspection agencies of the Member State concerned shall, within 24 hours, notify the Commission and the central offices of the inspection authorities of the other Member States likely to be concerned, which shall then pass on this information as necessary in their territory.

3. The Member States shall draw up a register of traders and importers of fruit and vegetables and shall assign each a registration number.

4.
The Commission shall publish in the *Official Journal of the European Communities*, C series, a list of:

— the central offices of inspection authorities,
— inspection centres,
— approved agencies,
in each Member State, and of
— the approved official inspection authorities in third countries.

A list of exempted traders shall be published in the government and/or trade press in each Member State.

Article 12

Commission Regulations No 80/63/EEC, No 93/67/EEC, (EEC) No 496/70 and (EEC) No 2638/69 are hereby repealed with effect from 1 January 1993.

Article 13

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

It shall apply from 1 January 1993.

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

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ANNEX I

☐ internal

Inspection certificate

☐ import

☐ export

1. Trader / importer		**Inspection certificate** **EEC No** ..... This certificate is exlusively for the use of inspection agencies.	
2. Packer identified on packaging (if other than trader / importer)		3. Inspection authority	
		4. Place of inspection / Region or country of destination Country of origin (1)	
5. Identification of means of transport		6. Destination check (if applicable)	
7. Packages (Number and type)	8. Type of product (variety if the standard specifies)	9. Quality class	10. Total weight in kg gross/net

11. The abovementioned inspection authority 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

Period of validity : ..... days

Place and date of issue

Inspector :
(name in block letters)

Signature

Inspection stamp

12. Comments :

(1) Where the produce is re-exported, indicate its origin in Box 8.

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ANNEX II

Processing certificate

1. Trader/importer	**Inspection certificate** **EEC No .....**
2. Origin of produce	3. Inspection authority issuing the certificate
4. Intended processing of produce Name and address of processor	5. Inspection agency in the region where processing is to take place

6. Packages Bulk	7. Type of product	8. Total weight in kg gross/net

9. Customs office : entry/exit

Place and date of issue

Inspector :
name (in block letters)

Signature

Inspection stamp

10. Comments :

11. The processor certifies that the product indicated above has been processed.

Place and date

Signature

Stamp

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ANNEX III

SPECIMEN

	**REGULATION (EEG) No 2251/92** **Serial No ...** (Name of Member State)