This document is meant purely as a documentation tool and the institutions do not assume any liability for its contents

►**B**

COUNCIL REGULATION (EC) No 1061/2009

of 19 October 2009

establishing common rules for exports

(codified version)

(OJ L 291, 7.11.2009, p. 1)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Regulation (EU) No 37/2014 of the European Parliament and of the Council of 15 January 2014	L 18	1	21.1.2014

▼B

COUNCIL REGULATION (EC) No 1061/2009

of 19 October 2009

establishing common rules for exports

(codified version)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the instruments establishing common organisation of agricultural markets and to the instruments concerning processed agricultural products adopted in pursuance of Article 308 of the Treaty, in particular the provisions of those instruments which allow for derogation from the general principles that quantitative restrictions or measures having equivalent effect may be replaced solely by the measures provided for in those same instruments,

Having regard to the proposal from the Commission,

Whereas:

(1) Council Regulation (EEC) No 2603/69 of 20 December 1969 establishing common rules for exports [1] has been substantially amended several times [2]. In the interests of clarity and rationality the said Regulation should be codified.

(2) The common commercial policy should be based on uniform principles, inter alia, as regards exports.

(3) Common rules should therefore be established for exports from the Community.

(4) Exports are almost completely liberalised in all the Member States. It is therefore possible to accept as a Community principle that exports to third countries are not subject to any quantitative restriction, subject to the exceptions provided for in this Regulation and without prejudice to such measures as Member States may take in conformity with the Treaty.

(5) The Commission should be informed if, as a result of unusual developments on the market, a Member State considers that protective measures might be necessary.

(6) It is essential that examination should take place at Community level, in particular on the basis of any such information and within an advisory committee, of export terms and conditions, of export trends, of the various aspects of the economic and commercial situation, and of the measures, if any, to be taken.

[1] OJ L 324, 27.12.1969, p. 25.
[2] See Annex II.

▼B

(7) It may become apparent from this examination that the Community should exercise surveillance over certain exports, or that interim protective measures should be introduced as a safeguard against unforeseen practices. The need for rapid and effective action makes it justifiable for the Commission to be empowered to decide upon such measures, but without prejudice to the subsequent position of the Council, whose responsibility it is to adopt a policy consistent with the interests of the Community.

(8) Any protective measures necessitated by the interests of the Community should be adopted with due regard for existing international obligations.

(9) It is desirable that Member States be empowered, in certain circumstances and provided that their actions are on an interim basis only, to take protective measures individually.

(10) It is desirable that while such protective measures are in operation there should be an opportunity for consultation for the purpose of examining the effects of the measures and of ascertaining whether the conditions for their application are still satisfied.

(11) It is necessary to authorise Member States which are bound by international commitments setting up, in cases of actual or potential supply difficulties, a system for the allocation of oil products between contracting parties to comply with the resulting obligations vis-à-vis third countries, without prejudice to Community provisions adopted to the same end. This authorisation should apply until the adoption by the Council of appropriate measures pursuant to commitments entered into by the Community or all the Member States.

(12) This Regulation should apply to all products, whether industrial or agricultural. Its operation should be complementary to that of the instruments establishing common organisation of agricultural markets, and to that of the special instruments adopted under Article 308 of the Treaty for processed agricultural products. Any overlap between the provisions of this Regulation and the provisions of these instruments, particularly the protective clauses thereof, must however be avoided,

HAS ADOPTED THIS REGULATION:

CHAPTER I

BASIC PRINCIPLE

Article 1

The exportation of products from the European Community to third countries shall be free, that is to say, they shall not be subject to any quantitative restriction, with the exception of those restrictions which are applied in conformity with the provisions of this Regulation.

▼B

CHAPTER II

COMMUNITY INFORMATION AND CONSULTATION PROCEDURE

Article 2

If, as a result of any unusual developments on the market, a Member State considers that protective measures within the meaning of Chapter III might be necessary, it shall so notify the Commission, which shall advise the other Member States.

▼M1

———————

Article 4

1. The Commission shall be assisted by the Committee on Safeguards, established by Council Regulation (EC) No 260/2009 ([1]). That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council ([2]).

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

▼B

Article 5

For the purpose of assessing the economic and commercial situation as regards a particular product, the Commission may request Member States to supply statistical data on market trends in that product and, to this end, acting in accordance with their national legislation and with a procedure to be specified by the Commission, to exercise surveillance over exports of such product. Member States shall take whatever steps are necessary in order to give effect to requests from the Commission and shall forward to the Commission the data requested. The Commission shall inform the other Member States.

CHAPTER III

PROTECTIVE MEASURES

Article 6

▼M1

1. In order to prevent a critical situation from arising on account of a shortage of essential products, or to remedy such a situation, and where Union interests call for immediate intervention, the Commission, acting at the request of a Member State or on its own initiative, and taking account of the nature of the products and of the other particular features of the transactions in question, may make the export of a product

([1]) Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules for imports (OJ L 84, 31.3.2009, p. 1).

([2]) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

▼M1

subject to the production of an export authorisation, the granting of which shall be governed by such provisions and subject to such limits as the Commission shall lay down in accordance with the examination procedure referred to in Article 4(2), or, in cases of urgency, in accordance with Article 4(3).

2. The European Parliament, the Council and the Member States shall be notified of the measures taken. Such measures shall take effect immediately.

▼B

3. The measures may be limited to exports to certain countries or to exports from certain regions of the Community. They shall not affect products already on their way to the Community frontier.

▼M1

4. Where intervention by the Commission has been requested by a Member State, the Commission shall take a decision pursuant to paragraph 1 within a maximum of 5 working days of the date of receipt of such request.

5. Where the Commission has acted pursuant to paragraph 1 of this Article, it shall, not later than 12 working days following the date of entry into force of the measure which it has taken, decide whether to adopt appropriate measures as provided for in Article 7. If, at the end of six weeks following the date of entry into force of the measure, no measures have been adopted, the measure in question shall be deemed revoked.

▼B

Article 7

▼M1

1. Where the interests of the Union so require, the Commission may, acting in accordance with the examination procedure referred to in Article 4(2), adopt appropriate measures:

▼B

(a) to prevent a critical situation from arising owing to a shortage of essential products, or to remedy such a situation;

(b) to allow international undertakings entered into by the Community or all the Member States to be fulfilled, in particular those relating to trade in primary products.

2. The measures referred to in paragraph 1 may be limited to exports to certain countries or to exports from certain regions of the Community. They shall not affect products already on their way to the Community frontier.

3. When quantitative restrictions on exports are introduced, account shall be taken in particular of:

(a) the volume of goods exported under contracts concluded on normal terms and conditions before the entry into force of a protective measure within the meaning of this Chapter and notified by the Member State concerned to the Commission in conformity with its national laws; and

(b) the need to avoid jeopardising achievement of the aim pursued in introducing quantitative restrictions.

▼M1

Article 8

1. While any measure referred to in Articles 6 and 7 is in operation, the Commission may, either at the request of a Member State or on its own initiative:

(a) examine the effects of the measure;

(b) ascertain whether the application of the measure is still necessary.

Where the Commission considers that the application of the measure is still necessary, it shall inform the Member States accordingly.

2. Where the Commission considers that any measure provided for in Article 6 or 7 should be revoked or amended, it shall act in accordance with the examination procedure referred to in Article 4(2).

▼B

CHAPTER IV

TRANSITIONAL AND FINAL PROVISIONS

Article 9

▼M1

In respect of products listed in Annex I, until the European Parliament and the Council adopt appropriate measures pursuant to international commitments entered into by the Union or all the Member States, Member States shall, without prejudice to rules adopted by the Union in this field, be authorised to implement the emergency sharing system introducing an allocation obligation vis-à-vis third countries provided for in international commitments entered into before the entry into force of this Regulation.

▼B

Member States shall inform the Commission of measures they intend to adopt. The measures adopted shall be communicated by the Commission to the Council and other Member States.

▼M1

Article 9a

The Commission shall include information on the implementation of this Regulation in its annual report on the application and implementation of trade defence measures presented to the European Parliament and to the Council pursuant to Article 22a of Council Regulation (EC) No 1225/2009 ([1]).

▼B

Article 10

Without prejudice to other Community provisions, this Regulation shall not preclude the adoption or application by a Member State of quantitative restrictions on exports on grounds of public morality, public

([1]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51).

▼B

policy or public security; the protection of health and life of humans, animals and plants; the protection of national treasures possessing artistic, historic or archaeological value, or the protection of industrial and commercial property.

Article 11

This Regulation shall be without prejudice to the operation of the instruments establishing common organisation of agricultural markets; or of the special instruments adopted under Article 308 of the Treaty for processed agricultural products; it shall operate by way of complement to those instruments.

However, in the case of products covered by such instruments, the provisions of Article 6 shall not apply to those in respect of which the Community rules on trade with third countries make provision for the application of quantitative export restrictions. The provisions of Article 5 shall not apply to those products in respect of which such rules require the production of a licence or other export document.

Article 12

Regulation (EEC) No 2603/69, as amended by the acts mentioned in Annex II, is repealed.

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

Article 13

This Regulation shall enter into force on the 20th day following 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.

▼B

ANNEX I

Products referred to in Article 9

CN code	Description
2709 00	Petroleum oils and oils obtained from bituminous minerals, crude
2710	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70 % or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils:
2710 11 11 to 2710 11 90	Light oils
2710 19 11 to 2710 19 29	Medium oils
2710 19 31 to 2710 19 99	Heavy oils, except lubricating oils, used in clocks and watches and the like, presented in small receptacles containing not more than 250 g net of oil
2711	Petroleum gases and other gaseous hydrocarbons:
	– Liquefied:
2711 12	– – Propane:
	– – – Propane of a purity not less than 99 %
	– – – Other
2711 13	– – Butanes
	– In gaseous state:
ex 2711 29 00	– – Other:
	– – – Propane
	– – – Butanes

▼B

ANNEX II

Repealed Regulation with its list of successive amendments

(as referred to in Article 12)

Council Regulation (EEC) No 2603/69 (OJ L 324, 27.12.1969, p. 25)	
Council Regulation (EEC) No 234/71 (OJ L 28, 4.2.1971, p. 2)	
Council Regulation (EEC) No 1078/71 (OJ L 116, 28.5.1971, p. 5)	
Council Regulation (EEC) No 2182/71 (OJ L 231, 14.10.1971, p. 4)	
Council Regulation (EEC) No 2747/72 (OJ L 291, 28.12.1972, p. 150)	Only Article 1, first indent
Council Regulation (EEC) No 1275/75 (OJ L 131, 22.5.1975, p. 1)	
Council Regulation (EEC) No 1170/76 (OJ L 131, 20.5.1976, p. 5)	
Council Regulation (EEC) No 1934/82 (OJ L 211, 20.7.1982, p. 1)	
Council Regulation (EEC) No 3918/91 (OJ L 372, 31.12.1991, p. 31)	

▼B

ANNEX III

Correlation table

Regulation (EEC) No 2603/69	This Regulation
Articles 1 to 6	Articles 1 to 6
Article 7(1) introductory part	Article 7(1) introductory part
Article 7(1) first indent	Article 7(1)(a)
Article 7(1) second indent	Article 7(1)(b)
Article 7(2)	Article 7(2)
Article 7(3) introductory part	Article 7(3) introductory part
Article 7(3) first indent	Article 7(3)(a)
Article 7(3) second indent	Article 7(3)(b)
Article 8	—
Article 9	Article 8
Article 10(1)	—
Article 10(2)	Article 9
Article 11	Article 10
Article 12(1)	Article 11 first paragraph
Article 12(2)	Article 11 second paragraph
—	Article 12
Article 13	Article 13
Annex I	—
Annex II	Annex I
—	Annex II
—	Annex III