

▼B**REGULATION (EEC) No 234/68 OF THE COUNCIL****of 27 February 1968****on the establishment of a common organisation of the market in live trees and other plants, bulbs, roots and the like, cut flowers and ornamental foliage**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament⁽¹⁾;

Whereas the operation and development of the common market in agricultural products must be accompanied by the establishment of a common agricultural policy to include in particular a common organisation of agricultural markets which may take various forms depending on the product;

Whereas the production of live trees and other plants, bulbs, roots and the like, cut flowers and ornamental foliage (hereinafter where appropriate called 'live plants') is of particular importance to the agricultural economy of certain regions of the Community; whereas for growers in these regions the proceeds of such production represent a major part of their income; whereas therefore efforts should be made, through appropriate measures, to promote the rational marketing of such production and to ensure stable market conditions;

Whereas one of the measures to be taken with a view to the establishment of the common organisation of the market is the application of common quality standards to the products in question; whereas the application of these standards should have the effect of eliminating from the market products of unsatisfactory quality and of promoting commercial relations on the basis of genuine competition, thus contributing to an improvement in the profitability of production;

Whereas the application of these standards makes some form of inspection of quality necessary for the products which are subject to standardisation; whereas therefore provision should be made to ensure such inspection;

Whereas exports of flowering bulbs to third countries are of considerable economic importance to the Community; whereas the continuation and development of such exports may be ensured by stabilising prices in this trade; whereas provision should therefore be made for minimum export prices for the products in question;

Whereas the common organisation of the market in live plants justifies the application of the Common Customs Tariff; whereas, moreover, the regulations on imports from third countries should be coordinated and unified without delay;

Whereas, so as not to leave the Community market without defence against exceptional disturbances which may arise by reason of imports and exports, the Community should be enabled to take all necessary measures without delay;

Whereas the common organisation of the market involves the removal at the internal frontiers of the Community of all obstacles to the free movement of the goods in question;

Whereas the provisions of the Treaty which allow the assessment of aids granted by Member States and the prohibition of those which are incompatible with the common market should be made to apply to live plants;

⁽¹⁾ OJ No 156, 15.7.1967, p 27.

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Whereas, in order to facilitate implementation of the proposed measures, a procedure should be provided for establishing close co-operation between Member States and the Commission within a Management Committee;

Whereas the common organisation of the market in live plants must take appropriate account, at the same time, of the objectives set out in Articles 39 and 110 of the Treaty;

HAS ADOPTED THIS REGULATION:

*Article 1***▼M2**

A common organization of the market in live trees and other plants, bulbs, roots and the like, cut flowers and ornamental foliage shall be established in respect of the products falling within Chapter 6 of the combined nomenclature ►**M3**◄; it shall comprise common quality standards and a trading system.

▼B*Article 2*

In order to encourage action by trade and joint trade organisations, the following Community measures may be taken in respect of the products referred to in Article 1:

- measures to improve quality and stimulate demand;
- measures to promote better organisation of production and marketing;
- measures to facilitate the recording of market price trends.

General rules concerning measures shall be adopted in accordance with the procedure laid down in Article 43 (2) of the Treaty.

Article 3

Standards of quality, sizing and packaging, and the scope of these standards, may be determined for the products referred to in Article 1, or for groups of such products; the standards may relate in particular to quality grading, to wrapping, to presentation and to marking.

When standards have been adopted, the products to which they apply may not be displayed for sale, offered for sale, sold, delivered or otherwise marketed except in accordance with the said standards.

Standards and the general rules for their application shall be adopted by the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission.

Article 4

Adjustments to quality standards to take account of the requirements of production and marketing techniques shall be decided in accordance with the procedure laid down in Article 14.

Article 5

1. Member States shall subject to quality inspection products for which quality standards have been determined. They shall notify other Member States and the Commission, not later than one month after the entry into force of each quality standard, of the name and address of the bodies entrusted with the inspection of each product or group of products for which the standard is laid down.

2. Detailed rules for the application of paragraph 1 shall be adopted as necessary in accordance with the procedure laid down in Article 14, account being taken in particular of the need to ensure coordination of the work of the inspection bodies and uniformity of interpretation and application of quality standards.

▼ B*Article 6*

When standards have been determined, all offers made to the public by way of advertisements, catalogues or price lists must include, if the price is quoted, mention of the nature of the product and of its size grading.

Article 7▼ M2

1. For each of the products falling within subheading 0601 10, one or more minimum prices for exports to third countries may be fixed each year in good time before the marketing season, beginning in 1968, in accordance with the procedure laid down in Article 14.

Exportation of such products shall be permitted only at a price equal to or above the minimum price fixed for the product in question.

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2. Detailed rules for the application of paragraph 1 shall be adopted in accordance with the procedure laid down in Article 14.

▼ M4*Article 8*

1. Imports into the Community, of any of the products listed in Article 1 may be subject to presentation of an import licence.

Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community.

Import licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing the products are imported during the term of validity of the licence; except in cases of *force majeure*, the security shall be forfeited in whole or in part if import is not carried out, or is only carried out partially, within that period.

2. The term of validity of licenses and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 14.

Article 9

Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1.

Article 10

1. The general rule for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

Article 10a

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

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

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 14.

5. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.

▼B*Article 11*

Save as otherwise provided in this Regulation, Articles 92 to 94 of the Treaty shall apply to the production of and trade in the products referred to in Article 1.

Article 12

The Council, acting in accordance with the procedure laid down in Article 43 (2) of the Treaty, shall add to this Regulation such further provisions as may be required in the light of experience.

Article 13

1. A Management Committee for Live Plants (hereinafter called the 'Committee') shall be established, consisting of representatives of Member States and presided over by a representative of the Commission.

2. Within the Committee the votes of Member States shall be weighted in accordance with Article 148 (2) of the Treaty. The Chairman shall not vote.

Article 14

1. Where the procedure laid down in this Article is to be followed, the Chairman shall refer the matter to the Committee either on his own initiative or at the request of the representative of a Member State.

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2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

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3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the Opinion of the Committee they shall forthwith be communicated by the Commission to the Council. In that event the Commission may

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defer application of the measures which it has adopted for not more than one month from the date of such communication.

The Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, may take a different decision within one month.

Article 15

The Committee may consider any other question referred to it by its Chairman either on his own initiative or at the request of the representative of a Member State.

Article 16

At the end of the transitional period the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, shall decide in the light of experience whether to retain or amend the provisions of Article 14.

Article 17

This Regulation shall be so applied that appropriate account is taken, at the same time, of the objectives set out in Articles 39 and 110 of the Treaty.

Article 18

This Regulation shall be applied without prejudice to the provisions adopted or to be adopted with a view to approximating the provisions which have been laid down by law, regulation or administrative action in Member States and which are designed to maintain or improve the technical or genetic level of production of certain products covered by Article 1 and intended specifically for reproduction.

Article 19

This 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 July 1968.

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