

Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (repealed)

PART III

TRADE WITH THIRD COUNTRIES

CHAPTER I

General provisions

Article 128

General principles

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

- (a) the levying of any charge having equivalent effect to a customs duty;
- (b) the application of any quantitative restriction or measure having equivalent effect.

Article 129

Combined nomenclature

The general rules for interpreting the Combined Nomenclature, provided for in Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾ (hereinafter referred to as ‘Combined Nomenclature’), and the special rules for its application shall apply to the tariff classification of products covered by this Regulation. The tariff nomenclature resulting from the application of this Regulation including, as the case may be, the definitions in Annex III shall be included in the Common Customs Tariff.

Status: This is the original version (as it was originally adopted).

CHAPTER II

Imports

Section I

Import licences

Article 130

Import licences

1 Without prejudice to cases where import licences are required in accordance with this Regulation, the Commission may make imports of one or more products of the following sectors into the Community subject to presentation of an import licence:

- a cereals;
- b rice;
- c sugar;
- d seeds;
- e olive oil and table olives, with regard to products falling within CN codes 1509, 1510 00, 0709 90 39, 0711 20 90, 2306 90 19, 1522 00 31 and 1522 00 39;
- f flax and hemp, as far as hemp is concerned;
- g bananas;
- h live plants;
- i beef and veal;
- j milk and milk products;
- k pigmeat;
- l sheepmeat and goatmeat;
- m eggs;
- n poultrymeat;
- o agricultural ethyl alcohol.

2 When applying paragraph 1, the Commission shall take account of the need for import licences for the management of the markets concerned and, in particular, for monitoring the imports of the products in question.

Article 131

Issue of licences

Import licences shall be issued by Member States to any applicant, irrespective of its place of establishment in the Community, unless a Council Regulation or any other act of the Council provides otherwise, and without prejudice to measures taken for the application of this Chapter.

Article 132

Validity

Import licences shall be valid throughout the Community.

Article 133

Security

1 Save as otherwise provided for by the Commission, licences shall be issued subject to the lodging of a security guaranteeing that the products are imported during the term of validity of the licence.

2 Except in cases of *force majeure*, the security shall be forfeited in whole or in part if the import is not carried out, or is carried out only partially, within the period of validity of the licence.

Article 134

Implementing rules

The Commission shall adopt the detailed rules for the application of this Section, including the terms of validity of the licences and the rate of security.

Section II

Import duties and levies

Article 135

Import duties

Save as otherwise provided for pursuant to this Regulation, the rates of import duty in the Common Customs Tariff shall apply to the products referred to in Article 1.

Article 136

Calculation of import duties for cereals

1 Notwithstanding Article 135, the import duty on products covered by CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002 00 00, 1005 10 90, 1005 90 00 and 1007 00 90 other than hybrid for sowing, shall be equal to the intervention price valid for such products on importation increased by 55 %, minus the c.i.f. import price applicable to the consignment in question. However, that duty may not exceed the conventional rate of duty as determined on the basis of the Combined Nomenclature.

Status: This is the original version (as it was originally adopted).

2 For the purposes of calculating the import duty referred to in paragraph 1, representative c.i.f. import prices shall be established on a regular basis for the products referred to in that paragraph.

Article 137

Calculation of import duties for husked rice

1 Notwithstanding Article 135, the import duty on husked rice falling within CN code 1006 20 shall be fixed by the Commission without the assistance of the Committee referred to in Article 195(1) within 10 days of the end of the reference period concerned in accordance with point 1 of Annex XVII.

The Commission, without the assistance of the Committee referred to in Article 195(1), shall fix a new applicable duty if the calculations performed under that Annex indicate a need to change the duty. Until such time as a new applicable duty is fixed, the duty previously fixed shall apply.

2 In order to calculate the imports referred to in point 1 of Annex XVII, account shall be taken of the quantities for which import licences for husked rice falling within CN code 1006 20 were issued in the corresponding reference period, excluding the import licences for Basmati rice referred to in Article 138.

3 The annual reference quantity shall be 449 678 tonnes. The partial reference quantity for each marketing year shall correspond to half the annual reference quantity.

Article 138

Calculation of import duties for husked basmati rice

Notwithstanding Article 135, the husked Basmati rice varieties falling within CN codes 1006 20 17 and 1006 20 98 listed in Annex XVIII shall qualify for a zero rate of import duty under the conditions fixed by the Commission.

Article 139

Calculation of import duties for milled rice

1 Notwithstanding Article 135, the import duty for semi-milled or wholly milled rice falling within CN code 1006 30 shall be fixed by the Commission, without the assistance of the Committee referred to in Article 195(1), within ten days after the end of the reference period concerned in accordance with point 2 of Annex XVII.

The Commission, without the assistance of the Committee referred to in Article 195(1), shall fix a new applicable duty if the calculations performed under that Annex indicate a need to change the duty. Until such time as a new applicable duty is fixed, the duty previously fixed shall apply.

2 In order to calculate imports referred to in point 2 of Annex XVII, account shall be taken of the quantities for which import licences for semi-milled or wholly milled rice falling within CN code 1006 30 were issued in the corresponding reference period.

Article 140

Calculation of import duties for broken rice

Notwithstanding Article 135, the import duty on broken rice falling within CN code 1006 40 00 shall be EUR 65 per tonne.

Article 141

Additional import duties

1 An additional import duty shall apply to imports at the rate of duty laid down in Articles 135 to 140 of one or more products of the cereals, rice, sugar, beef and veal, milk and milk products, pigmeat, sheepmeat and goatmeat, eggs, poultrymeat and bananas sectors, in order to prevent or counteract adverse effects on the market of the Community which may result from those imports, if:

- a the imports are made at a price below the level notified by the Community to the WTO (the trigger price); or
- b the volume of imports in any year exceeds a certain level (the trigger volume).

The trigger volume shall be based on market access opportunities defined, where applicable, as imports as a percentage of the corresponding domestic consumption during the three previous years.

2 Additional import duties shall not be imposed where the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

3 For the purposes of paragraph 1(a), import prices shall be determined on the basis of the c.i.f. import prices of the consignment under consideration.

C.i.f. import prices shall be checked against the representative prices for the product on the world market or on the Community import market for that product.

Article 142

Suspension of import duties in the sugar sector

The Commission may suspend import duties in whole or in part for certain quantities in respect of the following products to guarantee the supply necessary for the manufacturing of products referred to in Article 62(2):

- (a) sugar falling within CN code 1701;
- (b) isoglucose falling within CN codes 1702 30 10, 1702 40 10, 1702 60 10 and 1702 90 30.

Article 143

Implementing rules

The Commission shall adopt the detailed rules for the application of this Section, in particular specifying:

Status: This is the original version (as it was originally adopted).

- (a) as regards Article 136:
 - (i) the minimum requirements for high quality common wheat;
 - (ii) the price quotations to be taken into consideration;
 - (iii) the possibility, where appropriate in specific cases, of giving operators the opportunity to know the duty applicable before the arrival of the consignments concerned.
- (b) as regards Article 141, the products to which additional import duties shall be applied and the other criteria necessary to ensure the application of paragraph 1 of that Article.

Section III

Import quota management

Article 144

Tariff quotas

1 Tariff quotas for imports of products referred to in Article 1 resulting from agreements concluded in accordance with Article 300 of the Treaty or from any other act of the Council shall be opened and administered by the Commission under detailed rules adopted by the Commission.

2 Tariff quotas shall be administered in a manner which avoids any discrimination between the operators concerned, by applying one of the following methods or a combination of them or another appropriate method:

- a a method based on the chronological order of the lodging of applications ('first come, first served' principle);
- b a method of distribution in proportion to the quantities requested when the applications were lodged (using the 'simultaneous examination method');
- c a method based on taking traditional trade patterns into account (using the 'traditional/newcomers method').

3 The method of administration adopted shall, where appropriate, give due weight to the supply requirements of the Community market and the need to safeguard the equilibrium of that market.

Article 145

Opening of tariff quotas

The Commission shall provide for the annual tariff quotas, if necessary suitably phased over the year and shall determine the administrative method to be used.

Article 146

Specific rules

1 With regard to the import quota of 54 703 tonnes of frozen beef and veal meat falling within CN codes 0202 20 30, 0202 30 and 0206 29 91 and intended for processing, the Council, acting in accordance with the procedure laid down in Article 37(2) of the Treaty, may lay down that all or part of the quota shall cover equivalent quantities of quality meat, applying a conversion rate of 4,375.

2 In the case of tariff quota for import into Spain of 2 000 000 tonnes of maize and 300 000 tonnes of sorghum and tariff quota for import into Portugal of 500 000 tonnes of maize, the detailed rules referred to in Article 148 shall also include the provisions necessary for carrying out the tariff quota imports and, where appropriate, the public storage of the quantities imported by the paying agencies of the Member States concerned and their disposal on the markets of those Member States.

Article 147

Tariff rates for bananas

This Chapter shall apply without prejudice to Council Regulation (EC) No 1964/2005⁽²⁾.

Article 148

Implementing rules

The Commission shall adopt detailed rules for the implementation of this Section, in particular on:

- (a) guarantees covering the nature, provenance and origin of the product;
- (b) recognition of the document used for verifying the guarantees referred to in point (a);
- (c) the conditions under which import licences shall be issued and their term of validity.

Section IV

Special provisions for certain products

Subsection I

Special provisions for imports in respect of the cereals and rice sectors

Article 149

Imports of mixtures of different cereals

The import duty applicable to mixtures composed of cereals falling within points (a) and (b) of Part I of Annex I shall be established as follows:

- (a) in the case where the mixture is composed of two of such cereals, the import duty shall be that applicable:
 - (i) to the component cereal predominating by weight, when the cereal represents at least 90 % of the weight of the mixture;
 - (ii) to the component cereal liable to the higher import duty, when neither of the two component cereals represents at least 90 % of the weight of the mixture;
- (b) in the case where the mixture is composed of more than two of such cereals, and where several cereals each represent more than 10 % by weight of the mixture, the import duty applicable to the mixture shall be the highest of the import duties applicable to such cereals, even when the amount of the import duty is the same for two or more of the cereals.

Where only one cereal represents more than 10 % of the weight of the mixture, the import duty to be applied shall be that applicable to this cereal.

- (c) in all cases not covered by points (a) and (b), the import duty shall be the highest of the import duties applicable to the cereals composing the mixture concerned, even when the amount of the import duty is the same for two or more of the cereals.

Article 150

Imports of mixtures between cereals and rice

The import duty applicable to mixtures composed of one or more of the cereals falling within points (a) and (b) of Part I of Annex I, on the one hand, and of one or more of the products falling within points (a) and (b) of Part II of Annex I, on the other, shall be that applicable to the component cereal or product liable to the highest import duty.

Article 151

Imports of mixtures of rice

The import duty applicable to mixtures composed either of rice classifiable under several different processing groups or stages or of rice classifiable under one or more

different processing groups or stages on the one hand and of broken rice on the other shall be that applicable:

- (a) to the component predominating by weight, when that component represents at least 90 % of the weight of the mixture;
- (b) the component liable to the highest import duty, when no component represents at least 90 % of the weight of the mixture.

Article 152

Applicability of the tariff classification

Where the method for fixing the import duty set out in Articles 149 to 151 cannot be applied, the duty to be applied to the mixtures referred to in those Articles shall be that determined by the tariff classification of the mixtures.

Subsection II

Preferential import arrangements for sugar

Article 153

Traditional supply need for refining

1 Notwithstanding Article 52(1), a traditional supply need of sugar for refining is fixed for the Community at 2 424 735 tonnes per marketing year, expressed in white sugar.

During the marketing year 2008/2009, the traditional supply need shall be distributed as follows:

- a 198 748 tonnes for Bulgaria;
- b 296 627 tonnes for France;
- c 100 000 tonnes for Italy;
- d 291 633 tonnes for Portugal;
- e 329 636 tonnes for Romania;
- f 19 585 tonnes for Slovenia;
- g 59 925 tonnes for Finland;
- h 1 128 581 tonnes for the United Kingdom.

2 The traditional supply need referred to in the first subparagraph of paragraph 1 shall be increased by 65 000 tonnes. This quantity shall concern raw cane sugar and shall be reserved for the marketing year 2008/2009 for the sole sugar beet processing plant at work in 2005 in Portugal. That processing plant is deemed to be a full time refiner.

3 Import licences for sugar for refining shall be issued only to full-time refiners provided that the quantities concerned do not exceed the quantities that may be imported in the framework of the traditional supply need referred to in paragraph 1. The licences may be transferred only between full-time refiners and their validity expires at the end of the marketing year for which they have been issued.

This paragraph shall apply for the marketing year 2008/2009, and for the first three months of each of the following marketing years.

Status: This is the original version (as it was originally adopted).

4 The application of import duties on cane sugar for refining falling within CN code 1701 11 10 originating in the States referred to in Annex XIX shall be suspended for the complementary quantity which is needed to allow an adequate supply of the full-time refiners for the marketing year 2008/2009.

The complementary quantity shall be fixed by the Commission, based on the balance between the traditional supply need referred to in paragraph 1 and the forecast supply of sugar for refining for the marketing year concerned. This balance may be revised by the Commission during the marketing year and may be based on historic flat-rate estimates of raw sugar intended for consumption.

Article 154

Guaranteed price

1 The guaranteed prices fixed for the ACP/Indian sugar shall apply for import of standard quality raw and white sugar from:

- a the least developed countries under the arrangements referred to in Articles 12 and 13 of Council Regulation (EC) No 980/2005⁽³⁾;
- b the States listed in Annex XIX for the complementary quantity referred to in Article 153(4).

2 Applications for import licences for sugar benefiting from a guaranteed price shall be accompanied by an export licence issued by the authorities of the exporting country certifying the compliance of the sugar with the rules provided for in the agreements concerned.

Article 155

Sugar Protocol commitments

The Commission may adopt measures to ensure that the ACP/Indian sugar is imported into the Community under the conditions set out in Protocol 3 to Annex V to the ACP-EC Partnership Agreement and the Agreement on cane sugar between the European Community and the Republic of India. Those measures may, if necessary, derogate from Article 153 of this Regulation.

Article 156

Implementing rules

Detailed rules for the application of this Subsection shall be adopted by the Commission, in particular to comply with international agreements. They may include amendments to Annex XIX.

Subsection III

Special provisions for imports of hemp

Article 157

Imports of hemp

1 The following products may be imported into the Community only if the following conditions are met:

- a raw true hemp falling within CN code 5302 10 00 meeting the conditions laid down in Article 52 of Regulation (EC) No 1782/2003;
- b seeds of varieties of hemp falling within CN code ex 1207 99 15 for sowing accompanied by proof that the tetrahydrocannabinol level does not exceed that fixed in accordance with Article 52 of Regulation (EC) No 1782/2003;
- c hemp seeds other than for sowing, falling within CN code 1207 99 91 imported only by importers authorised by the Member State in order to ensure that such seeds are not intended for sowing.

2 Without prejudice to any specific provisions which may be adopted by the Commission in accordance with Article 194, imports into the Community of the products specified in paragraph 1(a) and (b) of this Article shall be subject to checks to determine whether the conditions provided for in paragraph 1 of this Article are met.

3 This Article shall apply without prejudice to more restrictive provisions adopted by Member States in compliance with the Treaty and the obligations arising under the WTO Agreement on Agriculture.

Subsection IV

Special provisions for imports of hops

Article 158

Imports of hops

1 Products of the hops sector may be imported from third countries only if their quality standards are at least equivalent to those adopted for like products harvested within the Community or made from such products.

2 Products shall be considered as being of the standard referred to in paragraph 1 if they are accompanied by an attestation issued by the authorities of the country of origin and recognised as equivalent to the certificate referred to in Article 117.

In the case of hop powder, hop powder with higher lupulin content, extract of hops and mixed hop products, the attestation may be recognised as being equivalent to the certificate only if the alpha acid content of these products is not lower than that of the hops from which they have been prepared.

The equivalence of those attestations shall be verified in accordance with detailed rules adopted by the Commission.

Section V

Safeguard and inward processing

Article 159

Safeguard measures

1 Safeguard measures against imports into the Community shall be taken by the Commission, subject to paragraph 3 of this Article, in accordance with Council Regulations (EC) No 519/94⁽⁴⁾ and (EC) No 3285/94⁽⁵⁾.

2 Save as otherwise provided for pursuant to any other act of the Council, safeguard measures against imports into the Community provided for in international agreements concluded in accordance with Article 300 of the Treaty shall be taken by the Commission in accordance with paragraph 3 of this Article.

3 Measures referred to in paragraphs 1 and 2 may be taken by the Commission, without the assistance of the Committee referred to in Article 195(1), at the request of a Member State or on its own initiative. If the Commission receives a request from a Member State, it shall take a decision thereon within five working days following receipt of the request.

The Member States shall be notified of such measures, which shall be immediately applicable.

Decisions taken by the Commission pursuant to paragraphs 1 and 2 may be referred to the Council by any Member State within five working days of the date on which they were notified. The Council shall meet without delay. It may, acting by qualified majority, amend or repeal the decision in question within one month following the date on which it was referred to the Council.

4 Where the Commission considers that any safeguard measure taken in accordance with paragraphs 1 or 2 should be revoked or amended, it shall proceed as follows:

- a where the measure was enacted by the Council, the Commission shall propose to the Council that it be revoked or amended. The Council shall act by a qualified majority;
- b in all other cases, Community safeguard measures shall be revoked or amended by the Commission without the assistance of the Committee referred to in Article 195(1).

Article 160

Suspension of inward processing arrangements

1 Where the Community market is disturbed or is liable to be disturbed by inward processing arrangements, the Commission may suspend, at the request of a Member State or on its own initiative, fully or partially the use of inward processing arrangements for the products of the cereals, rice, sugar, olive oil and table olives, beef and veal, milk and milk products, pigmeat, sheepmeat and goatmeat, eggs, poultrymeat and agricultural ethyl alcohol sectors. If the Commission receives a request from a Member State, it shall take a decision thereon within five working days following receipt of the request.

The Member States shall be notified of such measures, which shall be immediately applicable.

Measures decided on by the Commission pursuant to the first subparagraph may be referred to the Council by any Member State within five working days of the date on which they were notified. The Council shall meet without delay. It may, acting by qualified majority, amend or repeal the measures in question within one month following the date on which they were referred to the Council.

2 To the extent necessary for the proper functioning of the CMO, the use of inward processing arrangements for the products referred to in paragraph 1 may be fully or partially prohibited by the Council, acting in accordance with the procedure laid down in Article 37(2) of the Treaty.

CHAPTER III

Exports

Section I

Export licences

Article 161

Export licences

1 Without prejudice to cases where export licences are required in accordance with this Regulation, the Commission may make exports of one or more products of the following sectors from the Community subject to presentation of an export licence:

- a cereals;
- b rice;
- c sugar;
- d olive oil and table olives, with regard to olive oil referred to in point (a) of Part VII of Annex I;
- e beef and veal;
- f milk and milk products;
- g pigmeat;
- h sheepmeat and goatmeat;
- i eggs;
- j poultrymeat;
- k agricultural ethyl alcohol.

When applying the first subparagraph, the Commission shall take account of the need for export licences for the management of the markets concerned and, in particular, for monitoring the exports of the products in question.

2 Articles 131 to 133 shall apply *mutatis mutandis*.

3 The Commission shall adopt detailed rules for the application of paragraphs 1 and 2, including the terms of validity of the licences and the rate of security.

Section II

Export refunds

Article 162

Scope of export refunds

1 To the extent necessary to enable exports on the basis of world market quotations or prices and within the limits resulting from agreements concluded in accordance with Article 300 of the Treaty, the difference between those quotations or prices and prices in the Community may be covered by export refunds for:

- a the products of the following sectors to be exported without further processing:
 - (i) cereals;
 - (ii) rice;
 - (iii) sugar, with regard to the products listed in points (b), (c), (d) and (g) of Part III of Annex I;
 - (iv) beef and veal;
 - (v) milk and milk products;
 - (vi) pigmeat;
 - (vii) eggs;
 - (viii) poultrymeat;
- b the products listed in point (a)(i), (ii), (iii), (v) and (vii) to be exported in the form of goods listed in Annexes XX and XXI.

In the case of the milk and milk products exported in the form of products listed in Part IV of Annex XX, export refunds may only be granted for products listed in points (a) to (e) and (g) of Part XVI of Annex I.

2 Export refunds on products exported in the form of processed goods listed in Annexes XX and XXI may not be higher than those applicable to the same products exported without further processing.

3 Insofar as is necessary to take account of the features of production peculiar to certain spirit drinks obtained from cereals, the criteria for granting export refunds referred to in paragraphs 1 and 2, and the procedure for verification, may be adapted by the Commission to suit this particular situation.

Article 163

Export refund distribution

The quantities which may be exported with an export refund shall be allocated by the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available, account being taken

- of the efficiency and structure of Community exports without creating discrimination between the operators concerned and in particular between large and small operators;
- (b) is least cumbersome administratively for operators, account being taken of administrative requirements;
- (c) avoids any discrimination between the operators concerned.

Article 164

Export refund fixation

1 Export refunds shall be the same for the whole Community. They may vary according to destination, especially where the world market situation, the specific requirements of certain markets, or obligations resulting from agreements concluded in accordance with Article 300 of the Treaty make this necessary.

2 Refunds shall be fixed by the Commission.

Refunds may be fixed:

- a at regular intervals;
- b by invitation to tender for products in respect of which provision was made for that procedure before the date of application of this Regulation in accordance with Article 204(2).

Except where fixed by tender, the list of products on which an export refund is granted and the amount of export refunds shall be fixed at least once every three months. The amount of the refund may, however, remain at the same level for more than three months and may, where necessary, be adjusted in the intervening period by the Commission, without the assistance of the Committee referred to in Article 195(1), either at the request of a Member State or on its own initiative.

3 One or more of the following aspects shall be taken into account when refunds for a certain product are being fixed:

- a the existing situation and the future trend with regard to:
 - prices and availabilities of that product on the Community market,
 - prices for that product on the world market.
- b the aims of the common market organisation which are to ensure equilibrium and the natural development of prices and trade on this market;
- c the need to avoid disturbances likely to cause a prolonged imbalance between supply and demand on the Community market;
- d the economic aspect of the proposed exports;
- e the limits resulting from agreements concluded in accordance with Article 300 of the Treaty;
- f the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to third countries, and the use of third-country products brought in under processing arrangements;
- g the most favourable marketing costs and transport costs from Community markets to Community ports or other places of export together with forwarding costs to the countries of destination;
- h demand on the Community market;

Status: This is the original version (as it was originally adopted).

- i in respect of the pigmeat, eggs and poultrymeat sectors, the difference between prices within the Community and prices on the world market for the quantity of feed grain input required for the production in the Community of the products of those sectors.

4 A corrective amount applicable to the export refunds may be set by the Commission in respect of the cereals and rice sectors. However, where necessary, the Commission, without the assistance of the Committee referred to in Article 195(1), may amend the corrective amounts.

The first subparagraph may also be applied to products that are exported in the form of goods listed in Annex XX.

Article 165

Export refund for malt in storage

For the first three months of the marketing year, the refund applicable to exports of malt in storage at the end of the previous marketing year or made from barley in stock at that time shall be that which would have been applied in respect of the export licence in question to exports during the last month of the preceding marketing year.

Article 166

Export refund adjustment for cereals

Unless otherwise provided for by the Commission, the refund on products listed in points (a) and (b) of Part I of Annex I, established in accordance with Article 167(2), shall be adjusted by the Commission in line with the level of the monthly increases applicable to the intervention price and, where appropriate, changes in that price.

The first paragraph may be applied, in whole or in part, to products listed in points (c) and (d) of Part I of Annex I as well as to products referred to in Part I of Annex I and exported in the form of goods referred to in Part I of Annex XX. In that case, the adjustment referred to in the first subparagraph shall be corrected by applying to the monthly increase a coefficient expressing the ratio between the quantity of basic product and the quantity thereof contained in the processed product exported or used in the goods exported.

Article 167

Granting of export refund

1 Refunds on products listed in Article 162(1)(a) exported as such without further processing shall only be granted on application and on presentation of an export licence.

2 The refund applicable to products referred to in paragraph 1 shall be that applicable on the day of application for the licence or, as the case may be, that resulting from the tender procedure concerned and, in the case of a differentiated refund, that applicable on the same day:

- a for the destination indicated on the licence, or
- b where appropriate, for the actual destination if this differs from the destination indicated on the licence, in which case the amount applicable shall not exceed the amount applicable to the destination indicated on the licence.

Status: This is the original version (as it was originally adopted).

Appropriate measures may be taken by the Commission to prevent abuse of the flexibility provided for in this paragraph.

3 By way of derogation from paragraph 1, the Commission may decide that in the case of eggs for hatching and of day-old chicks export licences may be granted *ex post*.

4 It may be decided, in accordance with the procedure referred to in Article 16(2) of Council Regulation (EC) No 3448/93⁽⁶⁾, to apply paragraphs 1 and 2 to the goods referred to in Article 162(1)(b) of this Regulation.

5 Derogations from paragraph 1 and 2 may be granted by the Commission in the case of products on which export refunds are paid under food-aid operations.

6 The refund shall be paid upon submission of proof that:

- a the products have been exported from the Community;
- b in the case of a differentiated refund, the products have reached the destination indicated on the licence or another destination for which a refund was fixed, without prejudice to point (b) of paragraph 2.

However, exceptions may be allowed by the Commission provided that conditions are laid down which offer equivalent guarantees.

7 Further conditions for the granting of export refunds may be established by the Commission for one or more products. They may include:

- a that refunds are only paid for products of Community origin;
- b that the amount of refunds for imported products shall be limited to the duties collected on importation where those duties are lower than the refund applicable.

Article 168

Export refunds for live animals in the beef and veal sector

With regard to products of the beef and veal sector, the granting and the payment of the refund for exports of live animals shall be subject to compliance with the provisions established in Community legislation concerning animal welfare and, in particular, the protection of animals during transport.

Article 169

Export limits

Observance of the volume commitments resulting from the agreements concluded in accordance with Article 300 of the Treaty shall be ensured on the basis of export licences issued for the reference periods which apply to the products concerned. With regard to compliance with the obligations arising under the WTO Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

Article 170

Implementing rules

Detailed rules for the application of this Section shall be adopted by the Commission, in particular:

Status: This is the original version (as it was originally adopted).

- (a) on the redistribution of exportable quantities which have not been allocated or utilised;
- (b) governing the quality and other specific requirements and conditions of the products eligible for an export refund;
- (c) for monitoring whether operations conferring entitlement to the payment of refunds and all other amounts in respect of export transactions have actually been carried out and executed correctly, including physical checks and document scrutiny.

Any necessary amendments to Annex XX shall be made by the Commission taking into account the criteria referred to in the first subparagraph of Article 8(2) of Regulation (EC) No 3448/93.

However, the detailed rules for the application of Article 167 for products referred to in Article 162(1)(b) shall be adopted in accordance with the procedure referred to in Article 16(2) of Regulation (EC) No 3448/93.

Section III

Export quota management in the milk and milk products sector

Article 171

Management of tariff quotas opened by third countries

1 With regard to milk and milk products, where an agreement concluded in accordance with Article 300 of the Treaty provides for the total or partial management of a tariff quota opened by a third country, the management method to be applied and detailed rules relating to that method shall be adopted by the Commission.

2 The tariff quotas referred to in paragraph 1 shall be administered in a manner which avoids any discrimination between the operators concerned and which guarantees the full use of the possibilities available under the quota concerned, by applying one of the following methods or a combination of them or another appropriate method:

- a a method based on the chronological order of the lodging of applications ('first come, first served' principle);
- b a method of distribution in proportion to the quantities requested when the applications were lodged (using the 'simultaneous examination method');
- c a method based on taking traditional trade patterns into account (using the 'traditional/new arrival method').

Section IV

Special import treatment by third countries

Article 172

Certificates for products benefiting from a special import treatment in a third country

1 When products are exported which may, in accordance with agreements concluded by the Community in accordance with Article 300 of the Treaty, benefit from a special treatment

on importation into a third country if certain conditions are respected, the competent authorities of the Member States shall, on request and after appropriate checks, issue a document certifying that the conditions are met.

2 Detailed rules for the application of this Article shall be adopted by the Commission.

Section V

Special provisions for live plants

Article 173

Minimum export prices

1 For each of the products of the live plants sector falling within CN code 0601 10, one or more minimum prices for exports to third countries may be fixed by the Commission each year in good time before the marketing season.

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

2 Detailed rules for the application of paragraph 1 shall be adopted by the Commission having regard to the obligations arising from agreements concluded in accordance with Article 300(2) of the Treaty.

Section VI

Outward processing

Article 174

Suspension of outward processing arrangements

1 Where the Community market is disturbed or is liable to be disturbed by outward processing arrangements, the Commission may suspend at the request of a Member State or on its own initiative fully or partially the use of outward processing arrangements for the products of the cereals, rice, beef and veal, pigmeat, sheepmeat and goatmeat and poultrymeat sectors. If the Commission receives a request from a Member State, it shall take a decision thereon within five working days following receipt of the request.

The Member States shall be notified of such measures, which shall be immediately applicable.

Measures decided on by the Commission pursuant to the first subparagraph may be referred to the Council by any Member State within five working days of the date on which they were notified. The Council shall meet without delay. It may, acting by qualified majority, amend or repeal the measures in question within one month following the date on which they were referred to the Council.

2 To the extent necessary for the proper functioning of the CMO, the use of outward processing arrangements for the products referred to in paragraph 1 may be fully or partially

Status: This is the original version (as it was originally adopted).

prohibited by the Council, acting in accordance with the procedure laid down in Article 37(2) of the Treaty.

- (1) [OJ L 256, 7.9.1987, p. 1](#). Regulation as last amended by Regulation (EC) No 733/2007 ([OJ L 169, 29.6.2007, p. 1](#)).
- (2) [OJ L 316, 2.12.2005, p. 1](#).
- (3) [OJ L 169, 30.6.2005, p. 1](#).
- (4) [OJ L 67, 10.3.1994, p. 89](#).
- (5) [OJ L 349, 31.12.1994, p. 53](#).
- (6) [OJ L 318, 20.12.1993, p. 18](#).