Commission Implementing Regulation (EU) No 1333/2011 of 19 December 2011 laying down marketing standards for bananas, rules on the verification of compliance with those marketing standards and requirements for notifications in the banana sector (codification)

COMMISSION IMPLEMENTING REGULATION (EU) No 1333/2011

of 19 December 2011

laying down marketing standards for bananas, rules on the verification of compliance with those marketing standards and requirements for notifications in the banana sector

(codification)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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)[(1)], and in particular Article 121(a) and Article 194, in conjunction with Article 4 thereof,

Whereas:

(1) Commission Regulation (EC) No 2257/94 of 16 September 1994 laying down quality standards for bananas[(2)], Commission Regulation (EC) No 2898/95 of 15 December 1995 concerning verification of compliance with quality standards for bananas[(3)] and Commission Regulation (EC) No 239/2007 of 6 March 2007 laying down detailed rules for the application of Regulation (EEC) No 404/93 as regards the requirements for communications in the banana sector[(4)] have been substantially amended[(5)]. In the interests of clarity and rationality the said Regulations should be codified by assembling them in a single act.

(2) Regulation (EC) No 1234/2007 makes provision for laying down marketing standards for bananas. The purpose of those standards is to ensure that the market is supplied with products of uniform and satisfactory quality, in particular in the case of bananas harvested in the Union, for which efforts to improve quality should be made.

(3) Given the wide range of varieties marketed in the Union and of marketing practices, minimum standards should be set for unripened green bananas, without prejudice to the later introduction of standards applicable at a different marketing stage. The characteristics of fig bananas and the way in which they are marketed are such that they should not be covered by the Union standards.

(4) It seems appropriate, in view of the objectives pursued, to allow the banana-producing Member States to apply national standards within their territory to their own production but only at stages subsequent to unripened green bananas, provided those rules are not

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in conflict with Union standards and do not impede the free circulation of bananas in the Union.

(5) Account should be taken of the fact that, because climatic factors make production conditions difficult in Madeira, the Azores, the Algarve, Crete, Lakonia and Cyprus, bananas there do not develop to the minimum length laid down. In those cases such bananas should still be allowed to be marketed, but only in Class II.

(6) Measures should be adopted to ensure uniform application of the rules on marketing standards for bananas, in particular as regards conformity checks.

(7) While taking due account of the nature of a highly perishable product and of the marketing practices and inspection procedures used in the trade, it should be laid down that checks on conformity are to be carried out in principle at the stage to which the standards apply.

(8) A product which has satisfied checks at that stage is deemed to comply with the standards. That assessment should be without prejudice to any unannounced checks carried out subsequently up to the ripening depot stage.

(9) The check on conformity should not be systematic but random, by assessment of an overall sample taken at random from the lot selected for checking by the competent body and assumed to be representative of that lot. For that purpose, the appropriate provisions of Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors[(6)] apply.

(10) The banana trade is subject to strong competition. The traders concerned have themselves introduced strict checks. Checks should not, therefore, be carried out at the stage laid down on traders who offer suitable guarantees as regards staff and handling facilities and who can guarantee that the bananas they market in the Union conform with Union standards. Such exemptions should be granted by the Member State on the territory of which the check is in principle to be carried out. Such exemptions should be withdrawn where the standards and conditions relating thereto are not met.

(11) In order for checks to be carried out, information should be supplied to the competent bodies by the traders concerned.

(12) The certificate of conformity issued upon completion of the checks should not constitute an accompanying document for the bananas up to the final stage of marketing, but a document of proof of the conformity of the bananas with Union standards up to the ripening depot stage, in accordance with the scope of the standard, to be presented at the request of the competent authorities. It should be stressed that bananas not conforming with the standards laid down in this Regulation may not be marketed for fresh consumption in the Union.

(13) In order to monitor how the banana market functions, it is necessary for the Commission to receive information on the production and marketing of bananas produced in the Union. Rules covering the notification of such information by Member States should be laid down.

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(14) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

MARKETING STANDARDS

Article 1

The marketing standards applicable to bananas falling within CN code 0803 00, excluding plantains, fig bananas and bananas intended for processing, are laid down in Annex I.

Those marketing standards shall apply to bananas originating in third countries at the stage of release for free circulation, to bananas originating in the Union at the stage of first landing at a Union port, and to bananas delivered fresh to the consumer in the producing region at the stage of leaving the packing shed.

Article 2

The marketing standards referred to in Article 1 shall not affect the application, at later stages of marketing, of national rules which:

(a) do not impede the free circulation of bananas originating in third countries or other regions of the Union and complying with the marketing standards referred to in Article 1; and

(b) are not incompatible with the marketing standards referred to in Article 1.

CHAPTER 2

VERIFICATION OF COMPLIANCE WITH MARKETING STANDARDS

Article 3

Member States shall carry out checks in accordance with this Chapter to verify that bananas falling within CN code 0803 00 excluding plantains, fig bananas and bananas intended for processing conform with the marketing standards referred to in Article 1.

Article 4

Bananas produced in the Union shall be subject to a check on their conformity with the marketing standards referred to in Article 1 before loading onto a means of transport with a view to be marketed fresh. Such checks may be carried out at the packing plant.

Bananas which are marketed outside their region of production shall be subject to spot checks when they are first unloaded elsewhere in the Union.

The checks referred to in the first and second paragraphs shall be carried out subject to Article 9.

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Article 5

Before release for free circulation in the Union, bananas imported from third countries shall be subject to checks on their conformity with the marketing standards referred to in Article 1 in the Member State of first unloading in the Union, subject to Article 9.

Article 6

1 The conformity checks shall be carried out in accordance with Article 17 of Implementing Regulation (EU) No 543/2011.

2 For products which, for technical reasons, cannot be checked for conformity upon first unloading in the Union, checks shall be carried out subsequently, at the latest on arrival at the ripening depot and in any case, as regards products imported from third countries, before release for free circulation.

3 On completion of the conformity check, a certificate drawn up in accordance with Annex II shall be issued for products whose compliance with the standard has been ascertained.

The inspection certificate issued for bananas originating in third countries shall be presented to the customs authorities for release of those products for free circulation in the Union.

4 In the event on non-compliance, point 2.7 of Annex V to Implementing Regulation (EU) No 543/2011 shall apply.

5 Where the competent body has not inspected certain products, it shall place its official stamp on the notification provided for in Article 7 or, failing that, in the case of imported products it shall duly inform the customs authorities by any other appropriate means.

6 Traders shall provide all the facilities required by the competent body for carrying out verifications pursuant to this Chapter.

Article 7

The traders concerned or their representatives, who do not qualify for the exemption provided for in Article 9, shall provide the competent body in good time with all the information necessary for identification of the lots and detailed information on the place and date of packing and shipping for bananas harvested in the Union, the planned place and date of unloading in the Union for bananas from third countries or from Union regions of production and deliveries to ripening depots for bananas which cannot be checked when they are first unloaded in the Union.

Article 8

1 Conformity checks shall be carried out by the departments or bodies designated by the competent national authorities. Such departments or bodies must present suitable guarantees for carrying out such checks, in particular as regards equipment, training and experience.

2 The competent national authorities may delegate responsibility for carrying out conformity checks to private bodies approved for that purpose which:

a have inspectors who have followed a training course recognised by the competent national authorities;

b have the equipment and facilities necessary for carrying out the verifications and analyses required for the checks; and

c have adequate facilities for communicating information.

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3 The competent national authorities shall periodically check the execution and efficiency of conformity checks. They shall withdraw approval where they find anomalies or irregularities which could affect the correct execution of conformity checks or where the requirements are no longer met.

Article 9

1 Traders marketing bananas harvested in the Union or bananas imported from third countries shall not be subject to the checks on conformity with marketing standards at the stages referred to in Articles 4 and 5 where they:

a have staff experienced in marketing standards and handling and inspection facilities;

b keep records of the operations they carry out; and

c present guarantees that the quality of bananas they market conforms with the marketing standards referred to in Article 1.

Traders exempted from checks shall obtain a certificate of exemption in accordance with the specimen shown in Annex III.

2 Exemption from checks shall be granted, at the request of the trader concerned, by the inspection departments or bodies appointed by the competent national authorities of either the Member State of production, for bananas marketed in the Union production region, or the Member State of unloading, for Union bananas marketed elsewhere in the Union and bananas imported from third countries. Exemption from checks shall be granted for a maximum period of three years and shall be renewable. Such exemption shall apply to the whole of the Union market for products unloaded in the Member State which granted the exemption.

Those departments or bodies shall withdraw the exemption where they detect anomalies or irregularities which could affect the conformity of bananas with the marketing standards referred to in Article 1 or where the conditions set out in paragraph 1 are no longer met. Withdrawal shall be either temporary or permanent, according to the gravity of the deficiencies detected.

Member States shall establish a register of banana traders exempted from checks, allocate them a registration number and take appropriate steps to disseminate such information.

3 The competent departments or bodies of the Member States shall periodically verify the quality of bananas marketed by the traders referred to in paragraph 1 and compliance with the conditions set out therein. Exempted traders shall also provide all the facilities required for carrying out such verifications.

[F1. . . . .]

Textual Amendments

F1 Deleted by Commission Implementing Regulation (EU) No 565/2013 of 18 June 2013 amending Regulations (EC) No 1731/2006, (EC) No 273/2008, (EC) No 566/2008, (EC) No 867/2008, (EC) No 606/2009, and Implementing Regulations (EU) No 543/2011 and (EU) No 1333/2011 as regards the notification obligations within the common organisation of agricultural markets and repealing Regulation (EC) No 491/2007.

Article 10

This Regulation shall apply without prejudice to any spot checks carried out subsequently up to the ripening depot stage.