Commission Regulation (EC) No 1295/2008 of 18 December 2008 on the importation of hops from third countries (Codified version)

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(Codified version)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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 192(2) and Article 195(2), in conjunction with Article 4, thereof,

Whereas:

(1) Commission Regulation (EEC) No 3076/78 of 21 December 1978 on the importation of hops from non-Member countries[(2)] and Commission Regulation (EEC) No 3077/78 of 21 December 1978 on the equivalence with Community certificates of attestations accompanying hops imported from non-Member countries[(3)] has been substantially amended several times[(4)]. In the interests of clarity and rationality the said Regulations should be codified.

(2) Article 158(1) of Regulation (EC) No 1234/2007 provides that hops and hop products from third countries may be imported only if their quality standards are at least equivalent to those adopted for like products harvested within the Community or their derivatives. Article 158(2) provides, however, that these products should be considered as being of those standards if they are accompanied by an attestation issued by the authorities of the country of origin and recognised as equivalent to the certificate required for the marketing of hops and hop products of Community origin.

(3) Commission Regulation (EC) No 1850/2006 of 14 December 2006 laying down detailed rules for the certification of hops and hop products[(5)] lays down very strict marketing requirements for hop products, and mixtures in particular. There is at the moment no effective method of checking at frontiers that these requirements are met. The only possible substitute for such a check is an undertaking on the part of the exporting countries to comply with the Community's marketing requirements for these products. It is therefore necessary to require that such products be accompanied by an attestation as specified in Article 158(2) of Regulation (EC) No 1234/2007.

(4) In order to ensure that Community rules on the certification of hops are respected, Member States should carry out checks to verify whether imported hops conform to the minimum marketing requirements laid down by Regulation (EC) No 1850/2006.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 1295/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) Certain third countries have undertaken to comply with the requirements prescribed for the marketing of hops and hop products and have authorised certain agencies to issue attestations of equivalence. These attestations should therefore be recognised as equivalent to Community certificates and the products covered by them admitted to free circulation.

(6) It is the responsibility of the organisations concerned in those third countries to keep up to date the information contained in Annex I and to maintain close cooperation with the Commission by communicating to it the information concerned.

(7) In order to facilitate control by the competent authorities of the Member States, it is essential to prescribe the form and, where necessary, the content of the attestation and the rules for its utilisation.

(8) In order to take account of trade practices, the competent authorities must be empowered, if a consignment is resold or split up, to have prepared under their supervision an extract from the attestation in respect of each new consignment resulting from the splitting up.

(9) By analogy with the Community's certification system, certain products should be exempt by virtue of their utilisation from the presentation of the attestations provided for in this Regulation.

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

HAS ADOPTED THIS REGULATION:

Article 1

1 Entry into free circulation in the Community of the products from third countries referred to in point (f) of Article 1 of Regulation (EC) No 1234/2007 shall be conditional upon proof being furnished that the requirements specified in Article 158(1) of that Regulation have been met.

2 The proof referred to in Article 1(1) of this Regulation shall be furnished by production of the attestation provided for in Article 158(2) of Regulation (EC) No 1234/2007, hereinafter referred to as an ‘attestation of equivalence’.

Article 2

For the purposes of this Regulation, ‘consignment’ means a quantity of a product having the same characteristics and sent by the same consignor at the same time to the same consignee.

Article 3

Attestations accompanying hops and hop products imported from third countries issued by an agency authorised by the third country of origin and appearing in Annex I shall be recognised as attestations of equivalence.

Annex I shall be revised on the basis of information communicated by the third countries concerned.

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Article 4

1 The attestation of equivalence shall be made out for each consignment and shall consist of an original and two copies to be drawn up on a form corresponding to the model set out in Annex II and in accordance with the rules set out in Annex IV.

2 An attestation of equivalence shall be valid only if it is duly completed and authenticated by one of the agencies referred to in Annex I.

3 A duly authenticated attestation of equivalence is one which shows the place and date of issue and which has been signed and bears the stamp of the issuing agency.

Article 5

1 Each unit of packaging covered by an attestation of equivalence shall bear the following particulars in one of the official languages of the Community:

a the description of the product;

b the variety or varieties;

c the country of origin;

d the marks and numbers indicated in section 9 of the attestation of equivalence or the extract.

2 The particulars provided for in paragraph 1 shall appear in legible, indelible characters of uniform size on the outside of the package.

Article 6

1 Where, before its entry into free circulation, a consignment covered by an attestation of equivalence is split up and redispatched an attestation extract shall be drawn up in respect of each new consignment resulting from such splitting.

The attestation shall be replaced by the necessary number of attestation extracts.

Each extract shall be drawn up by the party concerned in one original and two copies on a form corresponding to the model given in Annex III and in accordance with the rules set out in Annex IV.

2 The customs authorities shall endorse accordingly the original and the two copies of the attestation of equivalence, and shall countersign the original and the two copies of each extract.

They shall retain the original of the attestation of equivalence, send the two copies to the competent authority as referred to in Article 21 of Regulation (EC) No 1850/2006 and return the original and the two copies of each extract to the person concerned.

Article 7

On completion of customs formalities required for release for free circulation in the Community of the product to which the attestation of equivalence or the extract relates, the original and the two copies shall be submitted to the customs authorities who shall countersign them, retaining the original. One copy shall be forwarded by the customs authorities to the competent authority, as referred to in Article 21 of Regulation (EC) No 1850/2006, of the Member State where the product enters into free circulation. The second copy shall be returned to the importer, who must keep it for at least three years.

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Article 8

If the consignment is resold or split up after it has been released for free circulation, the product must be accompanied by an invoice or other commercial document drawn up by the vendor, giving the reference number of the attestation of equivalence or of the extract, together with the name of the authority which issued them.

The following information from the attestation of equivalence or, as the case may be, the extract shall also be included on the invoice or commercial document:

(a) for hop cones:

(i) the description of the product;

(ii) the gross weight;

(iii) the place of production;

(iv) the year of harvest;

(v) the variety;

(vi) the country of origin;

(vii) the markings and identification numbers given in Section 9 of the attestation;

(b) for products manufactured from hops, in addition to the particulars listed under point (a): the place and date of processing.

Article 9

1 The Member States shall regularly carry out checks on a random basis to verify whether hops which are imported pursuant to Article 158 of Regulation (EC) No 1234/2007 comply with the minimum marketing requirements set out in Annex I to Regulation (EC) No 1850/2006.

2 The Member States shall report to the Commission, every year by 30 June, the frequency, type and result of the checks which were carried out over the year preceding that date. The checks shall cover at least 5 % of the number of hop consignments expected to be imported from a third country into the Member State in question during the year.

3 If the competent authorities of the Member States find that the samples examined do not satisfy the minimum marketing requirements referred to in paragraph 1, the corresponding consignments may not be marketed in the Community.

4 If a Member State discovers that the characteristics of a product do not conform to the details listed on the attestation of equivalence accompanying the product it shall notify the Commission thereof.

In accordance with the procedure provided for in Article 195(2) of Regulation (EC) No 1234/2007, a decision may be taken to withdraw the agency having issued the attestation of equivalence for such products from the list in Annex I.

[[F1]5 The notifications referred to in paragraphs 2 and 4 shall be made in accordance with Commission Regulation (EC) No 792/2009[(6)].**]**

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Textual Amendments

F1 Inserted by Commission Implementing Regulation (EU) 2015/2000 of 9 November 2015 amending Regulations (EC) No 546/2003, (EC) No 1342/2003, (EC) No 952/2006, (EC) No 826/2008, (EC) No 1295/2008, (EC) No 1296/2008, (EU) No 1272/2009, (EU) No 738/2010 and Implementing Regulations (EU) No 543/2011 and (EU) No 511/2012 as regards the notification obligations within the common organisation of agricultural markets.

Article 10

By way of derogation from this Regulation, neither the production of the attestation referred to in Article 1(2) nor compliance with the provisions of Article 5 shall be required for the release for free circulation of the following hops and hop products where the weight per individual package does not exceed 1 kg in the case of hop cones and hop powder and 300 g in the case of hop extracts:

(a) small packages for sale to private individuals for their own use;

(b) for scientific and technical experiments;

(c) for fairs covered by the special customs arrangements for fairs.

The description, weight and final utilisation of the product must appear on the packaging.

Article 11

Regulations (EEC) No 3076/78 and (EEC) No 3077/78 are repealed.

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

Article 12

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