Commission Regulation (EC) No 1683/2006 of 14 November 2006 on transitional measures to be adopted in respect of trade in agricultural products on account of the accession of Bulgaria and Romania

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of Bulgaria and Romania and in particular Article 4(3) thereof,

Having regard to the Act of Accession of Bulgaria and Romania and in particular the first paragraph of Article 41 thereof,

Whereas:

(1) Transitional measures should be adopted in order to avoid the risk of deflection of trade, affecting the common organisation of agricultural markets due to the accession of two new States to the European Union on 1 January 2007.

(2) In accordance with the rules laid down in Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products[(1)], products are not entitled to refund unless they have left the customs territory of the Community within 60 days of acceptance of the export declaration. The obligation to leave the customs territory of the Community within 60 days of acceptance of the export declaration is also a primary requirement for releasing the security linked to the licence under Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products[(2)]. Since the internal borders will be removed upon accession, of Bulgaria and Romania, products exported from the Community of Twenty Five must have left the customs territory of the Community by 31 December 2006 at the latest in all cases, including where the export declaration has been accepted less than 60 days before the date of accession.

(3) Trade deflections liable to disrupt the market organisations often involve products moved artificially with a view to enlargement and do not form part of the normal stocks of the State concerned. Accumulation of such surplus quantities can also give rise to distortion of competition likely to affect the proper functioning of the common market organisation. Surplus stocks may also result from national production. Provisions should, therefore, be made for deterrent charges to be levied on surplus stocks in the new Member States.

(4) Provisions should be taken to prevent operators from circumventing the application of charges on goods in free circulation, laid down in Article 4, by placing goods which have been already released for free circulation in the Community of Twenty-five or in a new Member State before accession under a suspensive regime, either in temporary storage or under one of the treatments or procedures referred to in Article 4(15)(b) and Article 16(b) to (g) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code[(3)].

(5) It is necessary to prevent goods in respect of which export refunds were paid before 1 January 2007 from benefiting from a second refund when exported to third countries after 31 December 2006.

(6) The measures provided for in this Regulation are necessary and appropriate and should be applied in uniform fashion.

(7) The measures provided for in this Regulation are in accordance with the opinion of all the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation:

(a) ‘Community of Twenty-five’ means the Community as constituted on 31 December 2006;

(b) ‘new Member States’ means Bulgaria and Romania;

(c) ‘enlarged Community’ means the Community as constituted on 1 January 2007;

(d) ‘products’ means agricultural products and/or goods not included in Annex I of the EC Treaty;

(e) ‘production refund’ means the refund granted pursuant to Article 8 of Council Regulation (EEC) No 1784/2003[(4)] or Article 13(3) of Council Regulation (EC) No 318/2006[(5)].

Article 2

Exports from the Community of Twenty-five

Where, for the products intended for export from the Community of Twenty-five to one of the new Member States for which an export declaration has been accepted by 31 December 2006 at the latest, and for which an entitlement to the refund has not been acquired in accordance with Article 3 of Regulation (EC) No 800/1999 by that date, the beneficiary shall reimburse any refund received in accordance with Article 52 of that Regulation.

Article 3

Suspensive regime

1 By way of derogation from Annex V, Chapter 4, to the Act of Accession and from Articles 20 and 214 of Regulation (EEC) No 2913/92 products listed in Article 4(5) of this Regulation, which before 1 January 2007 have been in free circulation in the Community of Twenty-five or in a new Member State and on 1 January 2007 are in temporary storage or under one of the customs treatments or procedures referred to in Article 4(15)(b) and Article (16)(b) to (g) of Regulation (EEC) No 2913/92 in the enlarged Community, or which are in transport after having been the subject of export formalities within the enlarged Community shall, where a customs debt on importation is incurred, be charged with the import duty in accordance with Annex I to Council Regulation (EEC) No 2658/87[(6)] applicable on the date of the incurrence of the customs debt, and with additional duties, when applicable.

The first subparagraph shall not apply to products exported from the Community of Twenty-five if the importer gives evidence that no export refund has been sought for the products of the Member State of export. Upon the importer's request, the exporter shall arrange to obtain an endorsement by the competent authority on the export declaration that an export refund has not been sought for the products of the Member State of export.

2 By way of derogation from Annex V, Chapter 4, to the Act of Accession and from Articles 20 and 214 of Regulation (EEC) No 2191/92 products listed in Article 4(5) of this Regulation coming from third countries which are under inward processing referred to in Article 4(16)(d) of Regulation (EEC) No 2913/92 or temporary admission referred to in Article 4(16)(f) of that Regulation in a new Member State on 1 January 2007, shall where a customs debt on importation is incurred, be charged with the import duty in accordance with Annex I to Council Regulation (EEC) No 2658/87 applicable at the date of the incurrence of the customs debt, and with additional duties, when applicable.

Article 4

Charges on goods in free circulation

1 Without prejudice to Annex V, Chapter 3, to the Act of Accession, and where stricter legislation does not apply at national level, the new Member States shall levy charges on holders of surplus stocks at 1 January 2007 of products in free circulation.

2 In order to determine the surplus stock of each holder, the new Member States shall take into account, in particular:

a averages of stocks available in the years preceding accession;

b the pattern of trade in the years preceding accession;

c the circumstances in which stocks were built up.

The notion surplus stocks applies to products imported into the new Member States or originating from the new Member States. The notion surplus stocks applies also to products intended for the market of the new Member States.

The recording of the stocks shall be performed on the basis of the Combined Nomenclature applicable on 1 January 2007.

3 The amount of the charge referred to in paragraph 1 shall, for each product concerned, be equal to the amount by which the import duty applicable in the Community referred to in Article 3(1), including any applicable additional duty on 31 December 2006, exceeds the import duty applicable in the new Member State on that date, plus 20 % of that amount. The revenue of the charge collected by national authorities shall be assigned to the national budget of the new Member State.

4 In order to ensure that the charge referred to in paragraph 1 is correctly applied, the new Member States shall, without delay, carry out an inventory of stocks available as at 1 January 2007. To this end, they may use a system for identifying holders of surplus stocks based on a risk analysis taking due account in particular of the following criteria:

— type of activity of the holder,
— capacity of storage facilities,
— level of activity.

The new Member States shall notify the Commission of any measures they have implemented, prior to accession, to avoid any speculative stock-piling due to their accession, in particular to monitor and track down import flows for products with high risk of stock-piling, by 1 February 2007.

The new Member States shall notify the Commission of the quantity of products in surplus stocks, except of those quantities in public stocks as referred to in Article 5, by 30 September 2007.

5 This article shall apply to products covered by the following CN codes:

a in the case of Bulgaria:
- 0201 10 00, 0201 20, 0201 30 00, 0202 10 00, 0202 20, 0202 30,
- 0203 11, 0203 12, 0203 19, 0203 21, 0203 22, 0203 29, 0204, 0207[(7)], 0209 00, 0210,
- 0401, 0402, 0403, 0404, 0405, 0406,
- 0407 00, 0408,
- 0703 20 00, 0711 51 00,
- 1001, 1002 00 00, 1003 00, 1004 00 00, 1005, 1006 10, 1006 20, 1006 30, 1006 40 00, 1007 00, 1008, 1101 00, 1102, 1103, 1104, 1107, 1108, 1109 00 00,
- 1501, 1509, 1510 00, 1517,
- 1601, 1602 32, 1602 39, 1602 41, 1602 42, 1602 49, 1602 50, 1602 90,
- 1702 30[(8)], 1702 40[(9)], 1702 90 10, 1702 90 50, 1702 90 75, 1702 90 79, 1901 90 99,
- 2003 10 20, 2003 10 30, 2008 20, 2008 30 55, 2008 30 75, 2009 11, 2009 19, 2009 49,
- 2106 90 98[(10)], 2204 30, 2207 10 00, 2207 20 00, 2208 90 91, 2208 90 99, 2402.

b in the case of Romania:
- 0201 10 00, 0201 20, 0201 30 00, 0202 10 00, 0202 20, 0202 30,
- 0203 11, 0203 12, 0203 19, 0203 21, 0203 22, 0203 29, 0204, 0207 13, 0207 14, 0207 26, 0207 27, 0209 00, 0210,
- 0401, 0402 10, 0402 21, 0402 91, 0402 99, 0403, 0404, 0405, 0406,
- 0407 00, 0408,
- 0703 20 00, 0711 51 00,