

COMMISSION REGULATION (EEC) No 548/86

of 27 February 1986

laying down detailed rules for the application of accession compensatory amounts

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 467/86 of 25 February 1986 laying down general rules for the system of accession compensatory amounts for cereals⁽¹⁾, and in particular Article 8 thereof, and to the corresponding provisions of the other Regulations laying down general rules for the system of accession compensatory amounts applicable to agricultural products,

Whereas the accession compensatory amounts are charged on imports and granted on export; whereas, for the sake of uniformity, the procedures to be complied with should be aligned with existing customs procedures as far as possible; whereas, for this purpose, the provisions, *inter alia*, of the following Regulations should be taken into account:

- Council Regulation (EEC) No 754/76 of 25 March 1976 on the customs treatment applicable to goods returned to the customs territory of the Community⁽²⁾,
- Council Regulation (EEC) No 2102/77 of 20 September 1977 introducing a Community export declaration⁽³⁾,
- Commission Regulation (EEC) No 223/77 of 22 December 1976 on provisions for the implementation of the Community transit procedure and for certain simplifications of that procedure⁽⁴⁾, as last amended by Regulation (EEC) No 1209/85⁽⁵⁾,
- Commission Regulation (EEC) No 409/86 of 20 February 1986 on methods of administrative cooperation to safeguard during the transitional period the free movement of goods in trade between the Community as constituted on 31 December 1985, on the one hand, and Portugal and Spain on the other hand, and in trade between the two new Member States⁽⁶⁾;

Whereas the accession compensatory amount should not be paid until evidence is provided that the products have

been entered for consumption in the Member State of destination; whereas, to this end, the provisions of Article 20 (3) of Commission Regulation (EEC) No 2730/79 of 29 November 1979 laying down common detailed rules for the application of the system of export refunds on agricultural products⁽⁷⁾, as last amended by Regulation (EEC) No 568/85⁽⁸⁾, should be applied; whereas in cases where use is made of Article 10 of Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture⁽⁹⁾, this evidence must also meet the requirements of Article 15 of Commission Regulation (EEC) No 3154/85⁽¹⁰⁾;

Whereas, in order to facilitate the financing of exports, Member States should be authorized to advance to exporters, once the customs export formalities have been completed, all or part of the accession compensatory amount, provided that a security has been lodged guaranteeing that the advance will be repaid should it later emerge that no accession compensatory amount fell to be paid;

Whereas the correcting amount provided for in Article 152 of the Act of Accession for fruit and vegetables and the regulatory amount provided for in Article 123 for wine sector products are both applicable under certain conditions; whereas at present it appears desirable that the provisions of this Regulation should not apply to either of them;

Whereas the measures provided for in this Regulation are in accordance with the opinions of all the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down detailed rules for the application of the system of compensatory amounts, hereinafter referred to as 'accession compensatory amounts', provided for in Articles 72 and 240 of the Act of Accession.
2. The provisions of this Regulation shall also apply to the compensatory amounts referred to in Articles 118 and 304 of the Act of Accession.

⁽¹⁾ OJ No L 53, 1. 3. 1986.

⁽²⁾ OJ No L 89, 2. 4. 1976, p. 1.

⁽³⁾ OJ No L 246, 27. 9. 1977, p. 1.

⁽⁴⁾ OJ No L 38, 9. 2. 1977, p. 20.

⁽⁵⁾ OJ No L 124, 9. 5. 1985, p. 19.

⁽⁶⁾ OJ No L 46, 25. 2. 1986, p. 5.

⁽⁷⁾ OJ No L 317, 12. 2. 1979, p. 1.

⁽⁸⁾ OJ No L 65, 6. 3. 1985, p. 5.

⁽⁹⁾ OJ No L 164, 24. 6. 1985, p. 6.

⁽¹⁰⁾ OJ No L 310, 21. 11. 1985, p. 9.

3. For the purposes of this Regulation :
- (a) 'products' shall mean agricultural products covered by a common organization of a market ;
- (b) 'export declaration' shall mean either :
- the export declaration as referred to in Regulation (EEC) No 2102/77, or
 - without prejudice to customs provisions, any other declaration prescribed by the Member States to be submitted to the customs authorities at the time of completion of the customs export formalities with a view to applying accession compensatory amounts.

Article 2

1. On import into Portugal or Spain of products not having either of the status referred to in Article 9 (2) of the Treaty, the quantity, nature and characteristics of such products necessary for the determination of the accession compensatory amounts shall be established according to the provisions applicable to import duties in trade with third countries.

2. On export from Portugal or Spain to third countries, the quantity, nature and characteristics of products necessary for the determination of the accession compensatory amounts shall be established according to the provisions applicable to export refunds.

Article 3

The provisions in force under customs legislation governing trade with third countries shall apply to the accession compensatory amounts to be charged in intra-Community trade.

Article 4

Articles 5 to 9 shall apply to the granting of accession compensatory amounts in intra-Community trade.

Article 5

1. Unless the amount is fixed in advance, the accession compensatory amount to be granted shall be the amount in force on the date on which the customs authorities accept the export declaration by which the exporter states his intention to export the products in question and qualify for an accession compensatory amount.

This date shall also be used for determining the quantity, nature and characteristics of the products exported.

2. At the time of acceptance of the export declaration, the products shall be placed under customs control and shall so remain until they are entered for consumption.

3. No accession compensatory amount shall be granted on products which are not of sound and fair merchantable quality, or on products intended for human consumption whose characteristics or condition rule out or substantially impair their use for that purpose.

Article 6

The export declaration used for the completion of customs export formalities in order for products to qualify for an accession compensatory amount must include all such particulars as are necessary for determining the accession compensatory amount, in particular :

- (a) the relevant heading or subheading of the Common Customs Tariff ;
- (b) a description of the products in accordance with the nomenclature used for accession compensatory amounts ;
- (c) the net weight of the products or, where applicable, the quantity expressed in the unit of measurement to be taken into account in determining the accession compensatory amount in respect of each heading or subheading of the Common Customs Tariff ;
- (d) in so far as it is necessary for determining the accession compensatory amount, particulars of the composition of the products.

Article 7

1. The accession compensatory amount to be granted shall be paid only on submission of the export declaration indicating the particulars referred to in Article 6 and the date on which the declaration was accepted by the customs authorities.

If the export declaration cannot be produced, the competent authorities may exceptionally accept an authenticated photocopy or duplicate thereof issued in accordance with national provisions.

2. Payment of the accession compensatory amount shall moreover be subject to production, in addition to the document specified in paragraph 1, of :

- (a) evidence that the goods have been entered for consumption in a Member State in respect of which the accession compensatory amount is applicable. This evidence shall be provided :
 - as specified in Article 20 (3) (a) or (c) of Regulation (EEC) No 2730/79 *mutatis mutandis*,
 - in cases where use is being made of Article 10 of Regulation (EEC) No 1677/85, by means of the procedure laid down in Article 15 of Regulation (EEC) No 3154/85,

and

- (b) a copy or photocopy of the transport document.

3. If there are serious doubts about the true destination of the goods, the competent authorities of the Member States may require additional evidence to demonstrate to their satisfaction that they have actually been placed on the market in the Member State in respect of which the accession compensatory amount is applicable.

4. The evidence referred to in paragraph 2 (a) not be required in cases where the goods have been irretrievably lost for reasons of *force majeure* after they left the exporting Member State.

Article 8

1. Member States shall advance to the exporter at his request all or part of the accession compensatory amount as soon as customs export formalities are completed, on condition that he provides security to guarantee repayment of the amount advanced plus 15 %. They may specify the circumstances under which applications for advance payment of part of the amount will be considered.

The amount of the advance shall be calculated using the accession compensatory amount rate applicable for the destination declared and adjusted by any monetary compensatory or other amount applicable under Community Regulations.

2. If the amount advanced is greater than that actually due on the goods exported the exporter shall pay 115 % of the the difference between the two amounts.

If however by reason of *force majeure*:

- the evidence required under this Regulations for payment to the accession compensatory amount cannot be provided, or
- the goods go to a destination other than that for which the advance was calculated,

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

Done at Brussels, 27 February 1986.

the additional 15 % shall not be charged.

Securities shall be released in proportion to the accession compensatory amount in respects of which the evidence required under this Regulation has been provided.

3. If an amount due from an exporter is not paid despite a request to that effect the security covering it shall be forfeit.

Article 9

1. Accession compensatory amounts shall be granted only on receipt of written application from the person concerned and shall be made by the Member State on whose territory the export declaration was accepted. Member States may prescribe the use of a special application form.

2. Except in cases of *force majeure*, no claim for payment shall be entertained unless the relevant documents are submitted within 12 months following the date on which the customs authorities accepted the export declaration referred to in Article 5.

3. The competent authorities of a Member State may require translation of all the documents supporting the claim for payment of accession compensatory amounts into the official language or one of the official languages of the Member State.

Article 10

Where products are reimported into the Member State of exportation after being exported to another Member State, the provisions of Regulation (EEC) No 754/76 shall apply *mutatis mutandis* in the Member State of reimport to products fulfilling the conditions set in Article 2 (2) of the said Regulation.

Article 11

This Regulation shall enter into force on 1 March 1986.

For the Commission

Frans ANDRIESEN

Vice-President