

COUNCIL REGULATION (EEC) No 3640/90

of 11 December 1990

determining the general rules for the system of accession compensatory amounts for milk and milk products during the second stage of the accession of Portugal

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 234 (2) thereof,

Having regard to the proposal from the Commission,

Whereas Article 310 of the Act of Accession provides for the fixing of prices, for Portugal, at a level which may be different from that of the common prices; whereas, pursuant to Article 240 of the Act, such differences in price level are to be compensated for by a system of compensatory amounts;

Whereas the accession compensatory amounts are intended to avoid disturbances in trade resulting from differences in prices; whereas, as a result, the application of accession compensatory amounts is not required where there is no fear of such disturbances; whereas, as regards butter in particular, pursuant to Article 240 (2) of the Act of Accession, no such amount need be fixed given the slight difference between the prices applicable in Portugal and the common prices;

Whereas the situation as regards trade in skimmed-milk powder, where the price applicable in the Azores differs from that applicable in mainland Portugal, would warrant setting the accession compensatory amount on the basis of the latter price;

Whereas Article 311 of the Act of Accession provides that the accession compensatory amounts for dairy products other than butter and skimmed-milk powder are to be fixed with the help of coefficients to be determined; whereas, for the determination of such coefficients, account should be taken, in particular, of the difference between the prices recorded on the Portuguese market and the prices recorded in the other Member States;

Whereas, where it becomes necessary, provision should be made for the possible introduction of a system for the advance fixing of accession compensatory amounts;

Whereas a certain amount of deflection of trade and distortion of competition may, in particular, occur in the final period of moves towards price alignment and when common prices are applied throughout the Community; whereas it is therefore justified that measures intended to avoid such deflection and distortion should apply for such time as is necessary,

Article 1

For the purposes of this Regulation:

- 'Community of Ten' shall mean the Community as constituted on 31 December 1985,
- 'accession compensatory amounts' shall mean compensatory amounts applicable in trade between the Community of Ten and Portugal, between Spain and Portugal and between Portugal and third countries.

Article 2

Without prejudice to Article 3 of Regulation (EEC) No 3792/85 ⁽¹⁾, no compensatory amount shall be set for butter or for milk fat contained in other products.

Article 3

The accession compensatory amounts applicable for each milk year shall be:

- (a) for skimmed-milk powder, equal to the difference between the intervention price fixed for mainland Portugal and the intervention price applicable in the Community of Ten or in Spain;
- (b) for the other products listed in Article 1 of Regulation (EEC) No 804/68 ⁽²⁾, fixed using one or more of the following factors:
 - the difference between the prices recorded on the Portuguese market and the prices recorded in the Community of Ten or in Spain,
 - the quantities of raw materials used in the manufacture of the products concerned,
 - specific manufacturing costs.

⁽¹⁾ OJ No L 367, 31. 12. 1985, p. 7.

⁽²⁾ OJ No L 148, 28. 6. 1968, p. 13.

Article 4

In trade between the Community of Ten and Portugal, or between Spain and Portugal, accession compensatory amounts shall be levied or granted by the Member State concerned whose price level used for the determination of the accession compensatory amounts is the highest.

Article 5

1. The accession compensatory amount applicable shall be that in force at the time of acceptance of the declaration of import or export.

2. However, where necessary, the introduction of a system for the advance fixing of the accession compensatory amount may be decided upon in accordance with the procedure set out in Article 6.

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

Done at Brussels, 11 December 1990.

Article 6

1. The following shall be determined in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68:

- (a) the detailed rules for the application of this Regulation, in particular for fixing the accession compensatory amounts;
- (b) the procedure for granting and levying accession compensatory amounts in order to prevent any deflection of trade or distortion of competition.

2. Measures to prevent any deflection of trade or distortion of competition may continue to apply, for as long as is deemed necessary, after the accession compensatory amounts have been discontinued.

Article 7

This Regulation shall enter into force on 1 January 1991.

For the Council

The President

V. SACCOMANDI