

COUNCIL REGULATION (EEC) No 3648/90

of 11 December 1990

laying down general rules for implementing the Act of the Accession of Spain and Portugal as regards the compensation mechanism on imports of fruit and vegetables originating in Portugal

THE COUNCIL 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, and in particular Article 234 (2) thereof,

Having regard to the proposal from the Commission,

Whereas Article 318 of the Act of Accession provides that from the beginning of the second stage of the transitional period for Portugal a compensation mechanism is to be introduced for imports into the Community, as constituted on 31 December 1985, hereinafter called the 'Community of Ten', of fruit and vegetables for which a reference price is fixed with regard to third countries, according to Article 27 of Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1193/90⁽²⁾;

Whereas, among the measures necessary for implementing the mechanism, rules should be laid down in particular for recording the producer prices for products or varieties which are representative of the production marketed for the purpose of calculating the Community offer price; whereas it should be borne in mind that the prices listed concern products packaged for transportation;

Whereas, for the purpose of determining the Portuguese offer price calculated each marketing day on the basis of the representative rates recorded, the rates to be regarded as such should be defined; whereas, in order to obtain a realistic overview of the market situation, the rates to be used should concern a significant proportion of the goods presented on the markets; whereas the nature of the rates and the quantity of products to be taken into consideration for calculating the Portuguese offer price should therefore be specified;

Whereas, where the offer price of the Portuguese product is lower than the Community offer price, compensation is to

be effected by levying a corrective amount in accordance with Article 318 (1) (d) and (e) of the Act of Accession; whereas, in order to enable the compensation mechanism to operate satisfactorily under sound conditions and to ensure that Portuguese products are not subject to more stringent arrangements than those applying to products originating in third countries, provision should be made that a decision to fix a corrective amount or to discontinue it be based on the prices recorded for several consecutive market days, and the method to be applied should be defined,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Community offer price, referred to in Article 318 (1) (a) of the Act of Accession, applicable to the whole Community of Ten, shall be fixed for each marketing year or for each of the periods into which the year may be subdivided on the basis of seasonal price variations. It shall be fixed before the beginning of the marketing year. However, for the period from 1 January 1991 to the end of the 1990/91 marketing year, it shall be fixed before 1 January 1991.

2. The producer prices to be used for determining the Community offer price shall be those for a home-grown product with defined commercial characteristics, recorded on the representative market or markets situated in the production areas where prices are lowest, for the products or varieties which represent a considerable proportion of production marketed for part of the year or throughout the year and which fall within quality class I and satisfy specified requirements as regards packaging and preparation.

When the average of prices recorded on each representative market is being calculated, prices which could be considered excessively high or excessively low in relation to normal price fluctuations on the market shall be disregarded. Moreover, if the average price for a Member State shows excessive variations with respect to normal price fluctuations, it shall not be taken into account.

3. The transport costs referred to in Article 318 (1) (a) of the Act of Accession may be calculated on a flat-rate basis.

(1) OJ No L 118, 20. 5. 1972, p. 1.

(2) OJ No L 119, 11. 5. 1990, p. 43.

Article 2

For the purpose of calculating the Portuguese offer price referred to in Article 318 (1) (b) of the Act of Accession, the Commission shall, on the basis of information supplied by Member States or data gathered by the Commission itself, regularly follow, for a product with defined commercial characteristics, the trend of average prices for products coming from Portugal on all the representative markets of the Community of Ten for which prices are available, namely the average prices on the most representative import markets of the Member States and significant prices recorded on other markets for large quantities of those products or, if there are no prices on the most representative markets, significant prices recorded on other markets for large quantities.

The following shall be regarded as representative:

- the prices of class I products, provided that the quantities of this class represent not less than 50 % of the total quantity marketed;
- the prices of class I products, together with, where the products in this class represent less than 50 % of the total quantity, the prices, used as they stand, of class II products in respect of the quantity that will cover 50 % of the total quantity marketed;
- the prices, used as they stand, of class II products, in cases where there are no class I products, unless a decision is taken to multiply them by a conversion factor if, by reason of production conditions in Portugal, such products have not, because of their quality, been normally or traditionally marketed in class I. Where the prices are multiplied by a conversion factor, customs duties shall first be deducted.

Article 3

For the purpose of implementing Article 318 (1) (d) and (e) of the Act of Accession, the following procedure shall be applied:

1. If the Portuguese offer price remains at least ECU 0,6 below the Community offer price for two consecutive market days, a corrective amount shall be introduced, save in exceptional circumstances. This amount shall be equal to the difference between the Community offer price and the arithmetic mean of the last two Portuguese offer prices available.
2. Where the Portuguese offer price recorded during a period of 5 to 7 consecutive market days is alternatively higher or lower than the Community offer price, and

where Portuguese offer prices higher or lower than the Community offer price are recorded during two consecutive market days without the provision contained in paragraph 1 being applied, a corrective amount shall be introduced, save in exceptional circumstances, in derogation from that paragraph and under the conditions laid down below:

- the corrective amount shall be introduced where three Portuguese offer prices lower than the Community offer price are recorded and where one of the Portuguese offer prices is at least ECU 0,6 lower than the Community offer price;
- the corrective amount shall be equal to the difference between the Community offer price and the last available Portuguese offer price at least ECU 0,6 lower than the Community offer price.

3. The corrective amount introduced pursuant to paragraphs 1 and 2 shall be the same for all Member States of the Community of Ten and shall be levied in addition to the customs duties in force.
4. The corrective amount introduced in accordance with paragraph 1 shall not be adjusted unless a change in the factors used in its calculation gives rise from the time of its actual application, during three consecutive market days, to an adjustment in its amount or more than ECU 1,2.

The corrective amount shall be abolished where, from the time of actual application of that amount, the Portuguese offer prices for two consecutive market days are at least equal to the Community offer price or if the prices are unavailable for six consecutive working days. It shall also be abolished if the application of the first subparagraph results in a corrective amount of zero.

5. The corrective amount introduced in accordance with paragraph 2 shall be levied during six days.

The corrective amount shall be abolished prior to the expiry of that period only if:

- the application of paragraph 1 results in the fixing of a new higher corrective amount, or
- from the time of actual application of the corrective amount the Portuguese offer prices, during three consecutive market days, are at least equal to the Community offer price.

Article 4

1. Detailed rules for the application of this Regulation and the Community offer price shall be adopted in

accordance with the procedure laid down in Article 33 of Regulation (EEC) No 1035/72.

Article 5

This Regulation shall enter into force on 1 January 1991.

2. A decision to introduce, adjust or abolish the corrective amount shall be taken by the Commission.

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

Done at Brussels, 11 December 1990.

For the Council

The President

V. SACCOMANDI
