REGULATION (EEC) No 269/73 OF THE COMMISSION

of 31 January 1973

laying down detailed rules for the application of the system of 'Accession' compensatory amounts

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty concerning the Accession of new Member States to the European Economic Community and the European Atomic Energy Community [1], signed at Brussels on 22 January 1972 ;

Having regard to Council Regulation (EEC) No 229/73 [2] of 31 January 1973 laying down general rules for the system of compensatory amounts for cereals, and in particular Article 9 (1) thereof ;

Having regard to Council Regulation (EEC) No 234/73 [3] of 31 January 1973 laying down general rules for the system of compensatory amounts for pigmeat, and in particular Article 8 (1) thereof ;

Having regard to Council Regulation (EEC) No 237/73 [4] of 31 January 1973 laying down general rules for the system of compensatory amounts for eggs, and in particular Article 9 (1) thereof ;

Having regard to Council Regulation (EEC) No 235/73 [5] of 31 January 1973 laying down general rules for the system of compensatory amounts for poultrymeat, and in particular Article 9 (1) thereof ;

Having regard to Council Regulation (EEC) No 243/73 [6] of 31 January 1973 laying down general rules for the system of compensatory amounts for rice and fixing these amounts for certain products, and in particular Article 7 (1) (c) thereof ;

Having regard to Council Regulation (EEC) No 241/73 [7] of 31 January 1973 laying down general rules for the system of compensatory amounts for sugar, and in particular Article 4 (1) thereof ;

Having regard to Council Regulation (EEC) No 233/73 [8] of 31 January 1973 laying down general rules for the system of compensatory amounts for milk and milk products, and in particular Article 5 (1) thereof ;

Having regard to Council Regulation (EEC) No 181/73 [9] of 23 January 1973 laying down general rules for the system of compensatory amounts for beef and veal, and in particular Article 14 (1) thereof ;

Having regard to Council Regulation (EEC) No 185/73 [10] of 23 January 1973 laying down general rules for the system of compensatory amounts applicable, by virtue of the various forms of added sugar, to products processed from fruit and vegetables, and in particular Article 5 (1) thereof ;

Having regard to Council Regulation (EEC) No 240/73 [11] of 31 January 1973 laying down general rules for the system of compensatory amounts for plaice, and in particular Article 11 (1) thereof ;

Having regard to Council Regulation (EEC) No 228/73 [12] of 31 January 1973 laying down general rules for the system of compensatory amounts for fruit and vegetables, and in particular Article 9 thereof ;

Having regard to Council Regulation (EEC) No 232/73 [13] of 31 January 1973 laying down detailed rules for the application of the system of compensatory amounts to imports of goods covered by Regulation (EEC) No 1059/69, and in particular Article 1 thereof ;

Whereas the Regulations laying down general rules for the system of compensatory amounts for the different products affected provide that the compensatory amount levied by the importing Member States shall be that in force on the day of importation and that the compensatory amount granted by the exporting Member State shall be that in force on the day of exportation ;

Whereas for the sake of uniformity the day of importation should be the day of importation for the pur-

(1) OJ No L 73, 27. 3. 1972, p. 5.
(2) OJ No L 27, 1. 2. 1973.
(3) OJ No L 29, 1. 2. 1973.
(4) OJ No L 29, 1. 2. 1973.
(5) OJ No L 29, 1. 2. 1973.
(6) OJ No L 29, 1. 2. 1973.
(7) OJ No L 29, 1. 2. 1973.
(8) OJ No L 28, 1. 2. 1973.
(9) OJ No L 25, 30. 1. 1973, p. 9.
(10) OJ No L 25, 30. 1. 1973, p. 19.
(11) OJ No L 29, 1. 2. 1973.
(12) OJ No L 27, 1. 2. 1973.
(13) OJ No L 28, 1. 2. 1973.

poses of customs duties and levies and the day of exportation should be the day of exportation for the purposes of export refunds ;

Whereas payment of the compensatory amount for a product should be conditional upon proof being furnished that the product has left the geographical territory of the Community as originally constituted or of a new Member State, according to whether the customs export formalities were completed in the former or in the latter ;

Whereas, when the compensatory amount granted by the consigner Member State is either higher than the refund on exports to third countries or corrected for the amount of customs duties levied in the importing Member State, it proves necessary to require proof that the product has been released for consumption in the Member State of destination, in order both to avoid fraudulent practices and to grant an adequate compensatory amount ;

Whereas the arrangements provided for in this Regulation may be extended only to products in free circulation within the Community ; whereas, moreover, exported products which have qualified for a compensatory amount should be of such a quality that they can be marketed on normal terms ;

Whereas, if compensatory amounts varying according to Member State and to place of despatch or destination are applied, it is necessary to verify what compensatory amount has been applied to a given product ; whereas to that end special endorsements on Community transit documents are essential ;

Whereas to assist exporters in financing their operations the Member States should be authorized to pay, in advance, all or part of the compensatory amount as soon as customs export formalities are completed, provided that security, or a guarantee recognized as equivalent, is given to secure repayment of that advance should it later transpire that the refund should not have been paid ;

Whereas if, where use has been made of the above facility, it is later found that the compensatory amount has not been paid, exporters will have received free credit to which they were not entitled ; whereas, therefore, measures should be taken, except in cases of *force majeure*, to prevent the receipt of credit in this way ;

Whereas, for administrative reasons, applications for payment of the compensatory amount should be required to be made within a reasonable time limit ;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committees for Cereals, for Pigmeat, for Poutrymeat and Eggs, for Sugar, for Milk and Milk Products, for Beef and Veal, for Fruit and Vegetables, for Products Processed from Fruit and Vegetables, and for Fishery Products ;

HAS ADOPTED THIS REGULATION :

Article 1

This Regulation lays down detailed rules for the application of the system of compensatory amounts established by Articles 47, 55 and 97 of the Act concerning the conditions of Accession and the Adjustments to the Treaties.

Article 2

1. The provisions relating to the granting of export refunds and the collection of customs duties or levies shall apply in trade with third countries.

2. Articles 3 to 11 shall apply in trade between the Member States.

Article 3

For the purposes of this Regulation, except for Article 6, the Community as originally constituted shall be considered to be a single Member State.

Article 4

1. For the purpose of fixing the compensatory amount to be granted, the day on which the customs service accepts the document by which the declarant states his intention to export a Community product to another Member State and qualify for a compensatory amount shall be treated as the day of exportation. At the time of acceptance thereof the products shall be placed under customs control until they leave the territory of the exporting Member State.

For the purposes of this Regulation, acceptance of the document referred to in the preceding subparagraph shall be considered as constituting completion of the customs export formalities.

The date of the day on which the customs export formalities are completed shall be the operative date for determing quantity, nature and characteristics of the product exported.

2. For the purpose of fixing the compensatory amount to be levied, the day by reference to which the customs duties and levies are ascertained shall be treated as the day of importation.

Article 5

1. The compensatory amount shall be paid only upon proof that the product in respect of which customs export formalities have been completed has left the geographical territory of the Member State in which the formalities were completed.

2. However, where the compensatory amount is adjusted for the amount of customs duties, or where it is higher than the lowest export refund applicable to the product in question on the day of exportation, or where the compensatory amount is applicable for a product for which no refund is fixed, it shall be paid only upon proof that, further import formalities have been completed and duties and taxes of equivalent effect payable in the Member State of destination have been collected.

The proof required under the preceding subparagraph shall be furnished by production of the customs document drawn up in the country of destination, or of a copy thereof, or of a photocopy certified as a true copy by the competent services. That document must state, where appropriate, the amount of customs duties which have been collected.

Article 6

Where a product dispatched from a Member State of the Community as originally constituted to a new Member State crosses territories of the Community as originally constituted other than that of the said consigner Member State, the proof required under Article 5 (1) shall be furnished by production of the control copy provided for in Article 1 of Regulation (EEC) No 2315/69. For the purposes of Regulation (EEC) No 2315/69, the office of exit from the Community as originally constituted shall be considered to be the competent customs office of the Member State of destination.

Special endorsements shall be made in the following section of the control copy :

— Sections 101 and 103 ;

— Section 104, deleting what does not apply and inserting one of the following :

'Ausgang aus dem geographischen Hoheitsgebiet der Gemeinschaft in ihrer ursprünglichen Zusammensetzung' ;

'sortie du territoire géographique de la Communauté dans sa composition originaire' ;

'Uscita dal territorio geografico della Comunità nella sua composizione originaria' ;

'heeft het geografische grondgebied van de oorspronkelijke Gemeenschap verlaten'.

Article 7

1. No compensatory amount shall be granted or levied in respect of products which are not in free circulation within the Community.

Where, in respect of trade in composite products or goods, a compensatory amount is fixed for one or more of the components thereof, the compensatory amount shall apply to that or those components as and when the latter comply with the condition of the preceding subparagraph.

2. No compensatory amount shall be granted in respect of products which are not of fair and sound merchantable quality and, in the case of products intended for human consumption, if their use for that purpose is precluded or substantially diminished because of their characteristics or condition.

Article 8

1. In intra-Community trade in products for which a compensatory amount is fixed, Section 32 of the applicable Community transit document shall contain one of the following endorsements :

'Accession' compensatory amount (Member State of dispatch/Member State of destination) ;

udligningsbeløb 'tiltrædelse' (Afsendelsesmedlemsstat/Bestemmelsesmedlemsstat) ;

Ausgleichsbetrag 'Beitritt' (Abgangsmitgliedstaat/Bestimmungsmitgliedstaat) ;

Montant compensatoire 'adhésion' (État membre de départ/État membre de destination ;

importo compensativo 'adesione' (stato membro di partenza/stato membro di destinazione) ;

compenserend bedrag 'toetreding' (lid-staat van vertrek/lid-staat van bestemming).

Where movement of goods certificate DD3 is used, one of the above endorsements shall be entered on p. 2 of the certificate.

The customs office where export formalities are completed shall ensure that this paragraph is observed.

2. Where, for products for which a compensatory amount is fixed, a new document is used in place of the Community transit document applicable, section 32 of the new document shall contain the same endorsement as the original document.

3. Where Commission Regulation (EEC) No 304/71 of 11 February 1971 on simplification of the Community transit procedure for goods carried by rail is applied to the carriage of the products in question the endorsement provided for in paragraphs 1 and 2 shall be made under 'description of goods' on the International Consignment Note (CIM) or, as the case may be, on the 'International Express Parcels' Consignment Note TIEx). This endorsement shall be authenticated by the stamp of the customs office of departure.

4. Products introduced into a Member State other than that indicated as the Member State of destination on the Transit documents specified in paragraphs 1 and 3 shall be considered :

— As coming from the Member State of dispatch if the endorsements made pursuant to paragraph 1 show that the compensatory amount should be levied by the Member State indicated as the Member State of destination ;

— As coming from the Member State of destination if the endorsements made pursuant to paragraph 1 show that the compensatory amount should have been granted by the Member State of dispatch.

However where Article 5 (2) is applied, the products shall be considered as coming from the Member State of dispatch.

Article 9

Member States may pay the exporter in advance all or part of the compensatory amount as soon as the customs export formalities are completed, provided that security, or a guarantee recongnized as equivalent, is given to secure repayment of that advance plus 10 % thereof where the proof provided for in Article 5 is not furnished within the time limit prescribed by Article 11 and that the product left the geographical territory of the exporting Member State within 45 days from the day on which it was exported.

Article 10

The compensatory amount to be granted shall be paid only on written request from the person concerned. The Member States may draw up a special form therefor.

Article 11

Supporting evidence for payment of the compensatory amount shall, except in case of *force majeure*, be supplied within six months from completion of the customs export formalities.

Article 12

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

It shall apply from 1 February 1973.

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

Done at Brussels, 31 January 1973.

For the Commission

The President

François-Xavier ORTOLI