REGULATION (EEC) No 3280/73 OF THE COMMISSION

of 4 December 1973

establishing a system for the advance fixing of accession compensatory amounts and laying down detailed rules for its application in respect of cereal and rice products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to the Treaty [1] concerning the Accession of new Member States to the European Economic Community and to the European Atomic Energy Community, signed in 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 fixing these amounts for certain products, as amended by Regulation (EEC) No 1967/73 [3], and in particular Article 6 (2) thereof;

Having regard to Council Regulation (EEC) No 243/73 [4] 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 4 (2) thereof;

Whereas Article 6 (2) of Regulation (EEC) No 229/73 and Article 4 (2) of Regulation (EEC) No 243/73 make provision for the introduction of arrangements for the advance fixing of the compensatory amount should the need arise;

Whereas to ensure in uniform conditions of competition for traders, a system for the advance fixing of compensatory amounts should be introduced for products for which the import levy is fixed in advance;

Whereas arrangements already exist for fixing the levy or refund in advance in trade with third countries; whereas for administrative reasons, the 'accession' compensatory amount should as far as possible be fixed according to the same rules, in particular those laid down in Commission Regulation (EEC) No 1373/70 [5] of 10 July 1970 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products subject to a common price system, as last amended by Regulation (EEC) No 1796/73 [6];

Whereas, as far as the new Member States are concerned, a move towards alignment on the common prices is to be made at the beginning of each marketing year; whereas this price alignment means that compensatory amounts are fixed at a lower level each year; whereas, to ensure that compensatory amounts are not fixed in advance for purely speculative purposes, the rate fixed in advance should not exceed the rate fixed for the new marketing year where the period of validity of the certificate covers two marketing years;

Whereas the rate of compensatory amount applicable in trade between Member States varies with the product concerned; whereas for administrative reasons it should be specified that the advance fixing certificate is valid only in the Member State of issue and only for a specific origin;

Whereas if transactions between Member States and transactions between Member States and third countries are to be placed on an equal footing, the period of validity of advance fixing certificates used in trade between Member States should be identical to that of the import licence applicable to the relevant product in trade with third countries;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The compensatory amounts introduced by Article 55 of the Act of Accession or, where appropriate, the amounts applicable by way of a compensatory amount in pursuance of Article 56 of the said Act (hereinafter called 'Accession' compensatory amounts), shall be fixed in advance for the products listed in the Annex under the conditions laid down in this Regulation.

[1] OJ No L 73, 27. 3. 1972, p. 5.
[2] OJ No L 27, 1. 2. 1973, p. 25.
[3] OJ No L 201, 21. 7. 1973, p. 8.
[4] OJ No L 29, 1. 2. 1973, p. 26.
[5] OJ No L 158, 20. 7. 1970, p. 1.
[6] OJ No L 183, 5. 7. 1973, p. 1.

SECTION I

Trade between the new Member States and third countries

Article 2

1. Where the import levy or the export refund is fixed in advance, the accession compensatory amount in force on the day on which the application for the import or export licence is lodged shall be applicable.

2. Where the period of validity of the licence covers two marketing years, the 'accession' compensatory amount fixed in advance applicable if the licence is used in the new marketing year may not exceed the 'accession' compensatory amount fixed for the new marketing year.

SECTION II

Trade between the Member States of the Community as originally constituted and the new Member States and trade between the new Member States

Article 3

For the purposes of this Section, with the exception of Article 8 (3), (4), (5) and (6) the Member States of the Community as originally constituted shall be treated as a single Member State.

Article 4

1. The 'accession' compensatory amount in force on the day on which the application for the certificate referred to in Article 5 is lodged shall, provided the person concerned so requests when applying for the certificate, be applied to a transaction to be effected during the period of validity of that certificate.

2. Where the period of validity of the certificate covers two marketing years, the 'accession' compensatory amount fixed in advance applicable if the licence is used in the new marketing year may not exceed the 'accession' compensatory amount fixed for this new marketing year.

Article 5

1. All transactions in products to which the system for the advance fixing of 'accession' compensatory amount applies shall be subject to the production of an advance fixing certificate which shall be issued by the Member States to any applicant irrespective of the place of his establishment within the Community.

2. The advance fixing certificate shall be valid in the Member State of issue only.

3. Section 13 of the application for an advance fixing certificate applicable to imports, and of the certificate itself, shall specify the exporting Member State. The certificate shall make it obligatory to import from that Member State.

4. The advance fixing certificate shall require either the importation or the exportation, under the certificate, of the specified net quantity of product during the period of validity of the certificate.

5. Where the quantity imported or exported is not more than 7 % lower than the quantity specified on the certificate the obligation to import or export shall be considered to have been fulfilled.

6. The advance fixing certificate shall be valid from its date of issue within the meaning of Article 8 (1) of Regulation (EEC) No 1373/70 for a period which is identical to the period of validity of the import licence applicable to the product in question in trade with third countries.

7. The amount of the security for the advance fixing certificate shall be 3 units of account per metric ton.

Article 6

The provisions of Regulation (EEC) No 1373/70, with the exception of Articles

— 1,
— 2 (1), (2), (3) and (5),
— 4,
— 8 (2),
— 12 a,
— 15 (1), (2), (3) and (5),
— 16,
— 17,

shall apply to the advance fixing certificate.

Article 7

Advance fixing certificates shall be drawn up at least in duplicate, the first copy of which, called 'Titular Holder's Copy', and marked 'No 1', shall be issued without delay to the applicant and the second, called 'Issuing Agency's Copy', and marked 'No 2' shall be retained by the issuing agency.

Copy No 1 of the certificate shall be submitted to the office responsible for completing :

(a) in the case of an advance fixing certificate applicable to imports, import customs formalities ;

(b) in the case of an advance fixing certificate applicable to exports, export customs formalities.

After attribution of the quantity and endorsement by the office referred to in the preceding paragraph, Copy No 1 of the advance fixing certificate shall be returned to the party concerned.

Article 8

1. As regards the period of validity of advance fixing certificates :

(a) the obligation to import shall be considered to have been fulfilled and the right to import pursuant to the certificate shall be considered to have been exercised on the day when the import customs formalities relating to the product concerned are completed ;

(b) the obligation to export shall be considered to have been fulfilled and the right to export pursuant to the certificate shall be considered to have been exercised on the day when the export customs formalities relating to the product are completed ;

2. Release of the security shall be subject to production of proof :

(a) as regards imports, of completion of the import customs formalities relating to the product concerned ;

(b) as regards exports, of completion of the export customs formalities relating to the product concerned and proof that that product has left the geographical territory of the Member State in which these formalities were completed.

3. The proof required under paragraph 2 shall be furnished as follows :

(a) in cases referred to in paragraph 2 (a) of this Article proof shall be furnished by production of Copy No 1 of the advance fixing certificate and, where appropriate, of Copy No 1 of the extract or extracts of advance fixing certificates endorsed in accordance with the provisions of Article 7 ;

(b) in cases referred to in paragraph 2 (b) of this Article proof shall be furnished — by production of Copy No 1 of the advance fixing certificate and, where appropriate, of Copy No 1 of the extract or extracts of advance fixing certificates endorsed in accordance with the provisions of Article 7 — by production of additional proof and such proof shall be left to the choice of the authority which issues the advance fixing certificate where the issue of the certificate, the completion of export formalities and departure from the geographical territory in which the certificate of advance fixing may be used take place within the same Member State. In other cases, a copy or a photocopy, certified by the competent authority, of the control copy or copies provided for in Article 1 of Regulation (EEC) No 2315/69 [1], as amended by Regulation (EEC) No 690/73 [2], and endorsed as indicated in Article 6 of Regulation (EEC) No 269/73 [3], amended by Regulation (EEC) No 1466/73 [4], shall be returned or sent to the party concerned without delay for production to the agency issuing the advance fixing certificate.

Where the issue of the advance fixing certificate and completion of the export customs formalities both take place within the same Member States that Member State may provide that the copy or photocopy shall be submitted to the agency issuing the advance fixing certificate through official channels.

4. The security shall be released as soon as the proof referred to in paragraphs 2 and 3 has been furnished.

5. Subject to the application of Article 18 of Regulation (EEC) No 1373/70, where the obligation to import or export has not been fulfilled the security shall be forfeit for an amount equal to the difference between :

(a) 93 % of the net quantity indicated in the advance fixing certificate ; and

(b) the net quantity actually imported or exported.

However, if the net quantity imported or exported amounts to less than 7 % of the net quantity indicated in the advance fixing certificate, the whole of the security shall be forfeit. Moreover, if for any one certificate the amount to be forfeit is less than 2 units of account, the Member State may release the entire security.

6. On application by the titular holder of the document, Member States may release part of the security in proportion to the quantities of products for which the proof referred to in paragraphs 2 and 3 of this Article has been furnished, provided it is shown that a quantity equal to at least 7 % of the net quantity indicated in the advance fixing certificate has been imported or exported.

Article 9

1. One of the following endorsements shall be typewritten or underlined in red in Section 12 of the advance fixing certificate :

'certificates valid for the application of 'accession' compensatory amounts in trade between Member States',

'attester til brug ved anvendelsen af tiltræ delsesudligningsbeløb i samhandelen mellem medlemsstater'

'Vorausfestsetzungsbescheinigungen gültig für die Anwendung der Beitrittsausgleichsbeträge im Handel zwischen Mitgliedstaaten'

(1) OJ No L 295, 24. 11. 1969, p. 14.
(2) OJ No L 66, 13. 3. 1973, p. 23.
(3) OJ No L 30, 1. 2. 1973, p. 73.
(4) OJ No L 146, 4. 6. 1973, p. 13.

'certificats valables pour l'application des montants compensatoires adhésion dans les échanges entre États membres'

'certificati validi per l'applicazione degli importi compensativi adesione negli scambi tra gli Stati membri'

'certificaten geldig voor de toepassing van de compenserende bedragen toetreding in het handelsverkeer tussen Lid-Staten'.

2. In Section 17 of the advance fixing certificate the word 'levy' or 'refund', as the case may be, shall be deleted and replaced by the words "accession' compensatory amount'.

3. In Section 19 of the advance fixing certificate applicable to imports, the rate of 'accession' compensatory amount applicable shall be entered for each month concerned. Moreover, if the rate of 'accession' compensatory amount applicable in the new marketing year is not known at the time of advance fixing, one of the following endorsements shall appear in Section 20, preceded by an asterisk corresponding to the rate or rates shown in Section 19 :

'amount limited to the 'accession' compensatory amount applicable in the new marketing year.'

'dette beløb må ikke overstige det tiltrædelsesudligningsbeløb, som skal anvendes for det nye afsætningsår'

'Betrag begrenzt auf den im neuen Wirtschaftsjahr geltenden Beitrittsausgleichsbetrag'

'montant limité au montant compensatoire adhésion applicable pour la nouvelle campagne'

'importo limitato all'importo compensativo adesione applicabile per la nuova campagna'

'bedrag beperkt tot het compenserend bedrag toetreding van toepassing voor het nieuwe verkoopseizoen'.

Where the advance fixing certificate or extract therefrom is used for an import into Germany or Italy, the competent authorities in those Member States may require that it specify the adjusted rate or rates of 'accession' compensatory amount. In this event the rate or rates shall, at the request of the titular holder or transferee, be inserted in Section 19 by the agency which issued the advance fixing certificate as soon as the rate of 'accession' compensatory amount applicable in the new marketing year is known. The agency shall date and stamp the certificate.

Article 10

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

Article 2 (1) shall apply only to certificates whose date of issue within the meaning of Article 8 (1) of Regulation (EEC) No 1373/70 is later than the date of entry into force of this Regulation.

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

Done at Brussels, 4 December 1973.

For the Commission

The President

François-Xavier ORTOLI

ANNEX

I. Basic products — cereals

CCT heading No	Description of goods
10.01 A	Common wheat and meslin
10.01 B	Durum wheat
10.02	Rye
10.03	Barley
10.04	Oats
10.05 B	Maize, other than hybrid maize for sowing
10.07 A	Buckwheat
10.07 B	Millet
10.07 C	Grain sorghum
11.01 A	Wheat or meslin flour

II. Basic products — rice

CCT heading No	Description of goods
10.06	Rice : A. Paddy rice ; husked rice : I. Paddy rice : a) Round grained b) Long grained II. Husked rice : a) Round grained b) Long grained B. Semi-milled or wholly milled rice : I. Semi-milled rice : a) Round grained b) Long grained II. Wholly milled rice : a) Round grained b) Long grained C. Broken rice

III. Products processed from cereals and rice

CCT heading No	Nomenclature in simplified wording
07.06 A	Manioc, arrowroot, salep and other similar roots and tubers with high starch content, excluding sweet potatoes
11.06 A	Denatured flours and meal of sago and of manioc, arrowroot, salep and other roots and tubers falling within heading No 07.06, for the manufacture of starches
11.07 A I a)	Unroasted malt, obtained from wheat, in the form of flour
11.07 A I b)	Unroasted malt, obtained from wheat other than in the form of flour
11.07 A II a)	Unroasted malt, other than that obtained from wheat, in the form of flour
11.07 A II b)	Unroasted malt, other than that obtained from wheat, in the form of flour
11.07 B	Roasted malt
23.02 A I a)	Brans, sharps, and other residues derived from the sifting, milling or working of maize or rice, with a starch content not exceeding 35 % by weight
23.02 A I b) 1	Brans, sharps and other residues derived from the sifting, milling or working of maize or rice, with a starch content exceeding 35 % but not exceeding 45 % by weight, and having undergone a denaturing process
23.02 A I b) 2	Brans, sharps and other residues derived from the sifting, milling or working of maize or rice, with a starch content exceeding 35 % but not exceeding 45 % by weight, not having undergone a denaturing process, or with a starch content exceeding 45 % by weight
23.02 A II a)	Brans, sharps and other residues derived from the sifting, milling or working of cereals other than maize or rice, of which the starch content does not exceed 28 % by weight, and of which the percentage which passes through a sieve with an aperture of 0·2 mm does not exceed 10 % by weight or of which the sieved product has an ash content, calculated on the dry product, of 1·5 % or more by weight
23.02 A II b)	Brans, sharps and other residues derived from the sifting, milling or working of cereals other than maize or rice, not falling within subheading No 23.02 A II a)