# REGULATION (EEC) No 3335/73 OF THE COMMISSION

## of 10 December 1973

## on the movement of goods obtained in the Community under a procedure for the suspension or drawback of customs duties or other import charges

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 the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland to the European Economic Community and the European Atomic Energy Community;

Having regard to the Act [2] concerning the Conditions of Accession and the Adjustments to the Treaties and in particular Article 45 (2) thereof;

Whereas it is necessary to determine the conditions under which goods obtained in the Community under a procedure for the relief or drawback of customs duties or other import charges may benefit from the Community system in trade between the Community as originally constituted and the new Member States and between the new Member States themselves;

Whereas the admission of the said goods to the benefit of the Community system risks the falsification of the conditions of competition in the Common Market, in so far as the products incorporated into their manufacture are third country products, unless that admission is subjected to the collection of a levy aimed at compensating the effects of that system;

Whereas although the risk is not of a kind seriously to affect the issue as long as the tariff reduction in trade between the Community as originally constituted and the new Member States and between the new Member States themselves does not exceed 20 % of the basic duties this situation will change with the additional reduction of 20 % which will apply in such trade as from 1 January 1974;

Whereas, leaving aside the special tariff treatment resulting from the Agreement concluded between the Community and certain third countries goods obtained from the incorporation of products from other third countries may only be put into free circulation if those products have been wholly subjected to the appropriate customs duties in the Common Customs Tariff;

Whereas for these reasons the levy, on which admission of the goods to the benefit of the Community system will be dependent, should be assessed on the duties of the Common Customs Tariff or of the ECSC unified tariff in respect of the products incorporated into the manufacture of the aforesaid goods on which products the customs duties or import charges having equivalent effect which were applicable to them in the Community as originally constituted or in a new Member State have not been levied or which have benefited from a total or partial drawback of such duties or charges;

Whereas three further reductions of 20 % of the basic duties take effect respectively on 1 January 1975, 1 January 1976 and 1 July 1977;

Whereas the percentage for the compensatory levy must be fixed at a figure corresponding to the percentage tariff reduction applied;

Whereas it is not necessary to provide for the collection of the compensatory levy in respect of products for which provision is made for the total or partial elimination of customs duties and import charges having equivalent effect under Agreements concluded between the Community and certain third countries when such products are incorporated into the manufacture of goods under a procedure for the relief or drawback of customs duties;

Whereas the Protocols to the Agreements concluded between the Community and the EFTA countries lay down a special timetable for the progressive abolition of customs duties on imports into the Community of products falling within Chapters 48 or 49 of the Common Customs Tariff (excluding heading No 48.09); whereas the United Kingdom and Denmark progressively restore the customs duties on each of such products in such a way that by 1 July 1977 a uniform protection will have been reached for such

(1) OJ No L 73, 27. 3. 1972, p. 5.
(2) OJ No L 73, 27. 3. 1972, p. 14.

goods imported into the Community; whereas in order to avoid trade distortion the compensatory levy to be collected on each of the said products incorporated into the manufacture of goods obtained in the Community under a procedure for the relief or drawback of customs duties must be calculated according to the level of the customs duties, more or less identical to that which will apply as from 1 July 1977 in respect of the said products in the Community; whereas the level of these duties is approximately two thirds of the rates of duties in the Common Customs Tariff for the same goods;

Whereas in order to avoid competition between Community processers being affected, it is necessary to provide for the non-application of the compensatory levy in all cases when products which benefit from special arrangements on importation into a Member State because of their origin or where they have come from, are worked or processed in another Member State not granting those special arrangements;

Whereas, in respect of agricultural products liable to agricultural levies and other import charges provided for under the common agricultural policy and certain goods processed from agricultural products, the fact that the goods are obtained in the Community under a procedure for the relief or drawback of these levies or charges is incompatible with the application of the system of compensatory amounts laid down in Article 55 of the Act of Accession;

Whereas there must be a method for determining the calculation of the compensatory levy for products falling within a common organization of the markets in the Community as well as processed agricultural products subject to specific regulations following the setting up of the common agricultural policy when such products are incorporated into the manufacture of goods which fall neither under Annex II of the Treaty of Rome nor under Regulation No 170/67/EEC and (EEC) No 1059/69 under a procedure for the relief or drawback of the appropriate charges;

Whereas, in so far as, the said products are subject only to agricultural levies or other import charges provided for under the common agricultural policy it is possible with a view to administrative simplicity to provide for the compensatory levy to correspond to the total amount suspended or drawn back in order to admit the manufactured goods to the benefit of the Community system;

Whereas as regards agricultural products subject both to customs duties and other import charges provided for under the common agricultural policy the compensatory levy calculated on the duties of the Common Customs Tariff and the compensatory levy corresponding to the total amount suspended or drawn back are applied concurrently;

Whereas the subjection to a minor treatment under a procedure for relief or drawback of customs duties in one Member State of third country goods destined for another Member State solely to distort the provisions in respect of customs duties and import charges having equivalent effect or other measures of commercial policy which apply to such goods must be avoided;

Whereas the Commission will follow closely the development of trade in the aforesaid goods and will be ready to take adequate measures if the procedures under which any such goods benefit from the Community system cause difficulties,

HAS ADOPTED THIS REGULATION:

## TITLE I

## GENERAL

### *Article 1*

1. Goods obtained in a Member State and in the manufacture of which have been incorporated products on which have not been charged

— customs duties and charges having equivalent effect;

— compensatory amounts as prescribed in Article 55 of the Act of Accession;

— agricultural levies and other import charges provided for under the common agricultural policy

which were applicable to them in that Member State, or which have benefited from a total or partial drawback of such duties, charges, amounts, agricultural levies or other import charges shall, in so far as Community provisions in certain sectors do not prohibit the free circulation within the Community of such goods, benefit from the Community system under the conditions of this Regulation on importation into another Member State.

2. The Community system referred to in paragraph 1 consists of :

(a) the application of compensatory amounts prescribed in Article 55 (1) of the Act of Accession and the progressive abolition of :

— the fixed component referred to in Article 47 (2) of the said Act for goods covered by Regulation (EEC) No 1059/69 (1) ;

— the component referred to in Article 61 of the said Act for protection of the processing industry in respect of the products covered by the common organization of the markets in cereals, rice and products processed from fruit and vegetables ;

(b) the progressive abolition of customs duties and charges having equivalent effect and the abolition of quantitative restrictions and measures having equivalent effect in respect of goods subject thereto.

3. The Community as originally constituted shall be regarded as a single Member State for the purpose of this Regulation.

*Article 2*

1. In those cases were the products used are third country products, subjected to a treatment insufficient to be regarded as manufacture, the goods so obtained shall benefit from the system referred to in Article 1 (1) only on condition that they are in free circulation according to the provisions of the EEC Treaty, the ECSC Treaty and the Act of Accession.

2. The provisions of paragraph 1 of this Article shall not apply to the third country products referred to in Article 12 (1) (a) provided the conditions for the preferential importation into the Community of such products are fulfilled.

*Article 3*

Products imported into the Member State of manufacture without payment of customs duties, import charges having equivalent effect, compensatory amounts prescribed in Article 55 of the Act of Accession, agricultural levies and other import charges provided under the common agricultural policy to which they are liable, in place of products of the same kind, quality and having the same technical characteristics as products from the home market incorporated into the manufacture of goods for export, shall, under the conditions of Council Directive of 4 March 1969 (2) on the harmonization of provisions laid down by law, regulation or administrative action in respect of inward processing, be regarded as incorporated, in the circumstances referred to in Article 1 (1), into the manufacture of goods exported to another Member State.

*Article 4*

Customs duties of a fiscal nature or the fiscal element of any such duty retained in the new Member States in implementation of Article 38, of the Act of Accession shall not be regarded as customs duty for the purpose of this Regulation.

TITLE II

## COMPENSATORY LEVY PROVISIONS

*Article 5*

Subject to the exceptions in Title III of this Regulation goods obtained in a Member State in the circumstances referred to in Article 1 (1) of this Regulation shall benefit from the Community system on importation into another Member State on condition that a compensatory levy shall be charged in the State of manufacture in respect of each product incorporated into such manufacture.

Section 1

### Compensatory levy applicable if agricultural products subject to the system of agricultural levies and other charges laid down under the common agricultural policy and goods covered by Regulation No 170/67/EEC and (EEC) No 1059/69 are used

*Article 6*

1. The compensatory levy in respect of products subject to the system of agricultural levies and other charges laid down under the common agricultural policy and goods covered by Regulation No 170/67/EEC and (EEC) No 1059/69 incorporated in the manufacture of goods covered neither by Annex II of the Treaty nor by these two Regulations shall be equal to the amount of agricultural levies and other charges paid or the amount of the drawback.

2. In the case of products subject both to customs duties and agricultural levies and other charges the provisions of Section 2 of this Title shall apply as regards customs duties and the provisions of paragraph 1 of this Article shall apply as regards the agricultural levies and other charges.

(1) OJ No L 141, 12. 6. 1969, p. 1.
(2) OJ No L 58, 8. 3. 1969, p. 1.

Section 2

**Compensatory levy applicable when products other than those referred to in Section 1 are used**

*Article 7*

1. The compensatory levy in respect of products other than those referred to in Section 1 incorporated into the manufacture of goods shall be based, as appropriate, on

— the Common Customs Tariff duty if the products are covered by the Treaty establishing the European Economic Community.

— the customs duty of the ECSC unified tariff, if the products are covered by the Treaty establishing the European Coal and Steel Community.

2. The date which determines the rate of duties referred to in paragraph 1 shall be that which would apply if the goods obtained were entered for home use in the Member State of manufacture in liquidation of a procedure for the suspension or drawback of customs duties or other import charges instead of being exported to another Member State.

3. However, this date shall be 1 January 1974 in regard to products, entered in a new Member State before that date under a procedure involving relief from duty or drawback, which are incorporated into the manufacture of goods.

*Article 8*

1. The rate of the compensatory levy shall be a percentage of the rates of duties referred to in Article 7 (1).

2. The percentage shall be :

40 % for the period from 1 January 1974 to 31 December 1974 inclusive ;

60 % for the period from 1 January 1975 to 31 December 1975 inclusive ;

80 % for the period from 1 January 1976 to 30 June 1977 inclusive.

3. The date which determines this percentage shall be that on which the customs authority accepts the document by which the declarant states his intention to export the goods in question to another Member State.

However when the goods have been warehoused in a customs warehouse or placed in a free zone in the Member State of manufacture before being exported to another Member State, the date for the determination of the percentage shall be that on which the customs authority accepts the document by which the declarant states his intention to place the goods in question under one of the system referred to in this paragraph.

4. The compensatory levy shall not be collected for goods, obtained in the circumstances referred to in Article 1 (1), which have been exported from the Member State of manufacture, or warehoused in a borded warehouse or placed in a free zone in that Member State before 1 January 1974.

*Article 9*

1. The compensatory levy referred to in Article 5 shall be determined according to the description and quantity or value (or, if necessary by reference to any other charging basis) of either the imported products incorporated in the manufacture at the time they were entered with the Customs for process or, in the circumstances referred to in Article 3, imported goods of the same kind, quality and having the same technical characteristics as products from the home market incorporated in the manufacture of exported goods, at the time of their entry with the Customs.

2. Where the working of products produces several kinds of goods, the quantity, or where appropriate, the value of the products incorporated in the manufacture of each kind of goods, shall be determined according to the provisions of Articles 17 and 18 of the Council Directive of 4 March 1969 referred to above.

TITLE III

**EXCEPTIONS**

*Article 10*

Goods obtained in a Member State in the circumstances referred to in Article 1 (1) shall on importation into another Member State benefit from the Community system without collection of the compensatory levy on products incorporated in their manufacture when the products

(a) fulfil the conditions laid down in Articles 9 (2) and 10 (1) of the Treaty establishing the European Economic Community ; or

(b) are in free circulation in the Community in accordance with the Treaty establishing the European Coal and Steel Community ; or

(c) have been obtained in another Member State and have complied with the necessary conditions to benefit from the Community system.

*Article 11*

Goods obtained from products listed in Annex III to the Act of Accession shall benefit from the Community system only on condition that the products incorporated in their manufacture are in free circulation in accordance with the provisions of the EEC Treaty, the ECSC Treaty and the Act of Accession.

*Article 12*

1. In derogation from the provisions of Article 5 and subject to the provisions of Article 13 and of such provisions as may subsequently be made to counter distortion of competition within the Community the compensatory levy shall not be charged :

(a) on products imported from third countries, with which the Community has concluded preferential tariff Agreements, which fulfil the conditions under which preference is granted on importation into the Community ;

(b) on products incorporated into manufacture in the Community which originate in

— the independent Commonwealth countries, listed in Annex XI to the Act of Accession or in the non-European territories referred to in Article 24 of that Act maintaining special relations with the United Kingdom ;

— the Associated States referred to in Article 109 of the Act of Accession ;

— the Overseas Countries and Territories in association with the Community ;

— the Faroe Islands ;

(c) on products originating in or coming from Papua-New Guinea incorporated into manufacture in the Community.

2. The provisions of paragraph 1 shall apply to products referred to in subparagraph (b) of that paragraph only for as long as the importation arrangements applied to those products before accession continue in respect thereof in the Member States maintaining special relations with those countries or territories concerned.

3. The provisions of paragraphs 1 and 2 shall apply equally to products originating in the Anglo-French Condominium of the New Hebrides.

*Article 13*

1. In derogation from the provisions of Article 12 (1) (a) the compensatory levy shall be charged in respect of products falling within Chapters 48 and 49 of the Common Customs Tariff covered by Article 1 of Protocol No 1 to the Agreements concluded between the Community and the non-acceding EFTA-countries.

The compensatory levy applicable to these products shall be based on two thirds of the appropriate Common Customs Tariff duty in regard to third countries, rounded to the nearest whole number.

2. However the provisions of Article 12 (1) (a) remain applicable to the products falling within heading No 48.09 of the Common Customs Tariff.

TITLE IV

**FINAL PROVISIONS**

*Article 14*

The proof of the customs status of the incorporated products and of the goods obtained shall be drawn up in accordance with the methods of administrative cooperation laid down for this purpose.

*Article 15*

1. Without prejudice to the provisions of the Council Directive of 4 March 1969 on the harmonization of provisions laid down by law, regulation or administrative action in respect of inward processing, the compensatory levy charged at exportation may be repaid on the reimportation of goods obtained under the conditions referred to in Article 1 (1) on application by the party concerned.

2. Application for repayment must be made at the customs office where the compensatory levy was paid within three years from the date referred to in Article 8 (3), first subparagraph, of this Regulation.

*Article 16*

Each Member State shall inform the Commission of the steps taken by its central administration for the purposes of applying this Regulation and of any problems raised by its application.

*Article 17*

This Regulation shall enter into force on 1 January 1974.

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

Done at Brussels, 10 December 1973.

*For the Commission*

*The President*

François-Xavier ORTOLI