REGULATION (EEC) No 1428/74 OF THE COUNCIL

of 4 June 1974

amending, in respect of tomatoes, Regulation (EEC) No 228/73 laying down general rules for the system of compensatory amounts for fruit and vegetables

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to the Treaty concerning the Accession of new Member States to the European Economic Community and the European Atomic Energy Community, signed on 22 January 1972, and in particular Article 62 (1) of the Act [1] annexed thereto;

Having regard to the proposal from the Commission;

Whereas Article 65 of the Act of Accession provides that in the circumstances specified in paragraph 1 of that Article compensatory amounts shall be fixed for fruit and vegetables; whereas Article 66 of the said Act lays down the criteria for fixing such amounts;

Whereas under Council Regulation (EEC) No 228/73 [2] of 31 January 1973 laying down general rules for the system of compensatory amounts for fruit and vegetables, as last amended by Regulation (EEC) No 1365/73 [3], the compensatory amounts for tomatoes are fixed by applying to the prices for tomatoes grown under glass a conversion factor fixed at a standard figure to take account of the differences between tomatoes grown under glass and tomatoes grown in the open, to which the basic price relates;

Whereas the Court of Justice of the European Communities in its judgment of 21 March 1974 declared void Regulation (EEC) No 1365/73 in so far as it provided for a conversion factor to be applied to the producer price and thereby fixed the compensatory amounts applicable by Ireland in respect of tomatoes for delivery fresh to the consumer;

Whereas under Article 176 of the Treaty, the Council is required to take the necessary measures to comply with the judgment of the Court of Justice; whereas therefore, the compensatory amounts given for Ireland in the Annex to the Regulation in question should be replaced in respect of tomatoes by compensatory amounts fixed without applying a conversion factor to the producer prices;

Whereas, however, so as to avoid penalizing those importers who in 1973 imported tomatoes into Ireland during the period of application of the compensatory amounts, provision should be made to prevent the fixing of new compensatory amounts from affecting compensatory amounts already levied on imports by that Member State;

Whereas, as regards Denmark, the basic amounts applicable in respect of tomatoes from 1974 to 1977 should be determined by reference to an initial basic amount calculated without applying a conversion factor to the producer price,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to this Regulation shall be substituted for section D (2) of Annex I to Regulation (EEC) No 228/73 with effect from 11 June 1973. This provision shall be without prejudice to any compensatory amounts actually levied by Ireland on imports effected in 1973.

Article 2

The following subparagraph shall be added to Article 3 of Regulation (EEC) No 228/73:

'However, as regards the basic amounts applicable by Denmark in respect of tomatoes until 31 December 1977, these reductions shall be made by reference to the basic amounts fixed below:

Trade between Denmark and	Period of application	Amounts in u.a./100 kg net
Third countries	From 11 June to 31 October	36·2
EEC as originally constituted	From 11 June to 31 October	36·2
United Kingdom	From 11 June to 31 October	36·2
Ireland	From 11 June to 31 October	14·5'

[1] OJ No L 73, 27. 3. 1972, p. 14.
[2] OJ No L 27, 1. 2. 1973, p. 20.
[3] OJ No L 137, 24. 5. 1973, p. 1.

Article 3

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

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

Done at Luxembourg, 4 June 1974.

For the Council

The President

J. ERTL

ANNEX

2. By Ireland

Trade with	Period of application	Amounts in u.a./100 kg net
Third countries	From 11 June to 21 November	21·7
EEC as originally constituted	From 11 June to 21 November	21·7
United Kingdom	From 11 June to 21 November	21·7
Denmark	From 1 November to 21 November	21·7