COMMISSION REGULATION (EEC) No 52/81

of 1 January 1981

laying down detailed rules for the application of accession compensatory amounts

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Greece,

Having regard to Council Regulation (EEC) No 1/81 of 1 January 1981 laying down general rules for the system of accession compensatory amounts for cereals (1), and in particular Article 8 thereof, and to the corresponding provisions of the other Regulations laying down general rules for the system of compensatory amounts for agricultural products, or for goods resulting from the processing of agricultural products,

Whereas the Act of Accession provides for the application of compensatory amounts in respect of agricultural products and certain other goods, in particular those covered by

— Council Regulation (EEC) No 3033/80 of 11 November 1980 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products (2) and

— Council Regulation (EEC) No 3035/80 of 11 November 1980 laying down general rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and the criteria for fixing the amount of such refunds (3);

Whereas compensatory amounts must be charged on import and granted on export; whereas for the sake of uniformity the procedures to be complied with should be aligned with existing customs procedure to the extent possible; whereas *inter alia* the provisions of the following Regulations should be taken into account:

— Council Regulation (EEC) No 2102/77 of 20 September 1977 introducing a Community export declaration (4),

— Commission Regulation (EEC) No 223/77 of 22 December 1976 on provisions for the implementation of the Community transit procedure and for certain simplifications of that procedure (5), as last amended by Regulation (EEC) No 902/80 (6),

— Commission Regulation (EEC) No 49/81 of 1 January 1981 on methods of administrative cooperation to safeguard during the transitional period the free movement of goods between Greece and the other Member States (7);

Whereas a product should in principle benefit from a compensatory amount only when it is consumed on the market in the Member State of destination; whereas to check such a condition would result in very burdensome control procedures; whereas the aim could be achieved by granting the compensatory amount when the product has left the exporting Member States and by ensuring that the product would not obtain a benefit in cases of diversion from its destination;

Whereas in cases where the compensatory amount is higher than the lowest export refund, it is necessary to ensure that the products have been put on the market in the Member State of destination; whereas, to this end, the provisions of Article 20 (3) of Commission Regulation (EEC) No 2730/79 of 29 November 1979 laying down common detailed rules for the application of the system of export refunds on agricultural products (8), as last amended by Regulation (EEC) No 2891/80 (9), should apply;

Whereas Council Regulation (EEC) No 222/77 of 13 December 1976 on Community transit (10), as amended by Regulation (EEC) No 983/79 (11), allows Belgium, Luxembourg and the Netherlands to apply to the Community transit documents the agreements concluded or to be concluded between them with a view to reducing or abolishing frontier

(1) OJ No L 1, 1. 1. 1981, p. 1.
(2) OJ No L 323, 29. 11. 1980, p. 1.
(3) OJ No L 323, 29. 11. 1980, p. 27.
(4) OJ No L 246, 27. 9. 1977, p. 1.
(5) OJ No L 38, 9. 2. 1977, p. 20.
(6) OJ No L 97, 15. 4. 1980, p. 20.
(7) See page 1 of this Official Journal.
(8) OJ No L 317, 12. 12. 1979, p. 1.
(9) OJ No L 299, 8. 11. 1980, p. 10.
(10) OJ No L 38, 9. 2. 1977, p. 1.
(11) OJ No L 123, 19. 5. 1979, p. 1.

formalities; whereas for the purpose of the present Regulation these Member States should therefore be regarded as a single Member State;

Whereas the measures provided for in this Regulation are in accordance with the opinions of all the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down detailed rules for the application of the system of compensatory amounts, hereinafter referred to as 'accession compensatory amounts', provided for in Articles 43 and 61 of the Act of Accession of Greece.

2. For the purposes of this Regulation:

(a) 'products' shall mean both:

— agricultural products covered by the common market organization, and
— goods covered by Regulations (EEC) No 3033/80 and (EEC) No 3035/80;

(b) 'export declaration' shall mean either:

— the export declaration as referred to in Regulation (EEC) No 2102/77, or

— any other declaration prescribed, without prejudice to specific customs provisions, by the Member States to be submitted to the customs authorities at the time of completion of the customs export formalities with a view to applying accession compensatory amounts.

Article 2

1. On import into Greece of products not complying with the terms of Article 9 (2) of the Treaty, the quantity, nature and characteristics of such products necessary for the determination of the accession compensatory amounts shall be established according to the provisions applicable to import duties in trade with non-member countries.

2. On export from Greece to non-member countries, the quantity, nature and characteristics of products necessary for the determination of the accession compensatory amounts shall be established according to the provisions applicable to export refunds.

Article 3

1. Accession compensatory amounts shall be granted on export from:

— the Community of Nine to Greece of products which pursuant to Article 4 (b), second indent, or Article 5 of Regulation (EEC) No 49/81,

— Greece to the Community of Nine of products which pursuant to Article 4 (b), first and third indents, of Regulation (EEC) No 49/81,

are to be dispatched under cover of a document T2 GR or a document having equivalent effect.

2. Accession compensatory amounts shall be charged on import into:

— the Community of Nine of products covered by a document T2 GR or a document having equivalent effect,

— Greece of products covered by a document T2, T2 GR or a document having equivalent effect.

Furthermore, accession compensatory amounts shall be charged where the provisions of Article 12 apply.

3. The provisions in force with regard to customs legislation for trade with non-member countries shall apply to accession compensatory amounts to be charged.

Article 4

The provisions of Articles 5 to 11 shall apply to the granting of accession compensatory amounts on export as referred to in Article 3 (1).

Article 5

1. Unless the amount is fixed in advance, the accession compensatory amount to be granted shall be the amount applicable on the day on which the customs authorities accept the export declaration by which the exporter states his intention to export the products in question and qualify for an accession compensatory amount. This day shall also determine the quantity, nature and characteristics of the products exported.

2. At the time of acceptance of the export declaration, the products shall be placed under customs control and shall so remain until they leave the exporting Member State.

3. No accession compensatory amount shall be granted on products which are not of sound and fair marketable quality, or on products intended for human consumption whose characteristics or condition exclude or substantially impair their use for that purpose.

Article 6

The export declaration used on the completion of customs export formalities in order for products to qualify for an accession compensatory amount must include all such particulars as are necessary for determining the accession compensatory amout, in particular:

(a) the relevant heading or subheading of the Common Customs Tariff;

(b) a description of the products in accordance with the nomenclature used for accession compensatory amounts;

(c) the net weight of the products or, where applicable, the quantity expressed in the unit of measurement to be taken into account in determining the accession compensatory amount in respect of each heading or subheading of the Common Customs Tariff;

(c) in so far as it is necessary for determining the accession compensatory amount, particulars of the composition of the products.

Article 7

1. In the Community transit document used for products in respect of which customs export formalities have been completed with a view to the grant of accession compensatory amounts, one of the following endorsements shall be entered in the 'Description of goods' box:

— 'Tiltrædelsesudligningsbeløb ... (dato for antagelsen af udførselsangivelsen eller, såfremt tiltrædelsesudligningsbeløbet er forudfastsat, datoen for forudfastsættelsen af beløbet)';

— 'Beitrittsausgleichsbeträge ... (Datum der Annahme der Ausfuhranmeldung oder bei Vorausfestsetzung des Beitrittsausgleichsbetrags der Tag, an dem der Betrag im voraus festgesetzt worden ist)';

— 'ἐξισωτικά ποσά προσχωρήσεως ... (ἡμερομηνία κατά τήν ὁποία ἔγινε δεκτή ἡ δήλωση ἐξαγωγῆς, ἤ, στήν περίπτωση τοῦ ἐκ τῶν προτέρων καθορισμοῦ τοῦ ἐξισωτικοῦ ποσοῦ προσχωρήσεως, ἡμερομηνία τοῦ ἐκ τῶν προτέρων καθορισμοῦ)';

— 'Accession compensatory amounts ... (date of acceptance of the export declaration or, in cases where the accession compensatory amount has been fixed in advance, the day on which the amount was fixed in advance)';

— 'Montants compensatoires «adhésion» ... (date d'acceptation de la déclaration d'exportation ou, dans le cas où le montant compensatoire «adhésion» a été fixé à l'avance, date à laquelle le montant a été fixé à l'avance)';

— 'Importo compensativo adesione ... (data di accettazione della dichiarazione d'esportazione o, se l'importo compensativo adesione è stato fissato in anticipo, data di fissazione anticipata dello stesso)';

— 'Compenserende bedragen toetreding ... (datum van aanvaarding van de uitvoeraangifte of, ingeval het compenserende bedrag toetreding tevoren werd vastgesteld, de datum waarop het bedrag vooraf werd vastgesteld)'.

2. If a Community transit document is replaced by a new one, the 'Description of goods' box of the latter shall contain all the information contained in the corresponding box of the former.

Article 8

1. Where on completion of customs export formalities products are placed under one of the procedures provided for in Section 1 of Title IV of Regulation (EEC) No 223/77 for carriage to a station or a consignee in the Member State of destination, the office of departure shall ensure that the following endorsement is entered on the export declaration:

'Departure from the geographical territory of (Member State of departure) under the simplified Community (rail/large containers) transit procedure'.

2. The office of departure may permit the contract of carriage to be modified so that the operation is ended within the Member State of departure only if it is established:

— that, if the accession compensatory amount has already been paid, such amount has been repaid, or

— that the necessary steps have been taken by the authorities concerned to ensure that the accession compensatory amount is not paid.

However, if the accession compensatory amounts have been paid pursuant to Article 9 (1) and the product has not left the Member State of departure, the office of departure shall so inform the agency responsible for payment of the accession compensatory amount and shall provide it as soon as possible with all the necessary particulars. In such cases the accession compensatory amount shall be regarded as having been wrongly paid.

Article 9

1. The accession compensatory amount to be granted shall be paid only on submission of the export declaration indicating the particulars referred to in Article 6 and the date on which the declaration was accepted by the customs authorities. In addition, the declaration shall bear either the endorsement provided for in Article 8 (1) or it shall be proved that the products have left the exporting Member State. Such proof shall be furnished according to the provisions specified by the Member State in which the export declaration is accepted.

If the export declaration cannot be submitted, the competent authorities may exceptionally accept an authenticated photocopy or a duplicate thereof issued in accordance with national provisions.

2. Furthermore, if the accession compensatory amount is higher than the lowest export refund as referred to in Article 21 of Regulation (EEC) No 2730/79 and applicable to the product in question on the day of acceptance of the export declaration, or where no export refund is fixed for that product, the payment shall in addition to the proofs referred to in paragraph 1 be subject to the production of proof that the products have been imported into a Member State for which the accession compensatory amount is prescribed. Such proof shall be furnished according to the provisions of Article 20 (3) of Regulation (EEC) No 2730/79.

3. The additional proof referred to in paragraph 2 shall also be requested:

— where there is serious doubt as to the true destination of the products, or

— where the character of the applicant is not such as to guarantee that the export will be effected in accordance with the provisions in force.

4. In addition, the exporter shall in all cases where paragraph 2 or 3 applies produce a copy of the transport document.

5. The provisions of paragraphs 2 and 3 shall not apply to cases where the products have been irretrievably lost as a result of *force majeure* after having left the exporting Member State.

Article 10

1. The payment of accession compensatory amounts shall be made only on receipt of a written application from the person concerned and shall be made by the Member State in whose territory customs export formalities were completed. Member States may prescribe a special form for this purpose.

2. Except in cases of *force majeure*, no claim for payment shall be entertained unless the relevant documents are submitted within the six months following the day on which the customs authorities accepted the export declaration referred to in Article 5.

3. The competent authorities of a Member State may require translation of all the documents supporting the claim for payment of accession compensatory amounts into the official language or one of the official languages of the Member State.

Article 11

For the purpose of this Regulation Belgium, the Netherlands and Luxembourg shall be considered as a single Member State.

Article 12

If products covered by a Community transit document endorsed as provided for in Article 7 (1) are introduced into a Member State collecting accession compensatory amounts on import of such products, an amount equal to the accession compensatory amount expressed in national currency and in force on the date shown in the endorsement shall be collected by the competent authorities of the Member State of introduction. The amount collected shall be considered as a repayment of the amount granted.

Article 13

This Regulation shall enter into force on 1 January 1981.

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

Done at Brussels, 1 January 1981.

For the Commission

The President

Roy JENKINS