COUNCIL REGULATION (EEC) No 3771/85
of 20 December 1985
on stocks of agricultural products in Portugal

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 258 (3) thereof,

Having regard to the proposal from the Commission,

Whereas Article 254 of the Act of Accession provides that any stock of products in free circulation in Portuguese territory on 1 March 1986 which in quantity exceeds that which may be considered representative of a normal carry-over stock must be eliminated by and at the expense of the Portuguese Republic;

Whereas Article 254 of the Act of Accession does not apply to products subject to transition in stages until the date on which the second stage commences;

Whereas, in the case of certain products, the level of any stocks need not be determined either for reasons relating to the nature of such products or the common organization of the markets, or because of the fact that no financing is provided by the European Agricultural Guidance and Guarantee Fund;

Whereas, for reasons relating to the management of agricultural markets, care should be taken to ensure that the elimination of the products as referred to in Article 254 of the Act of Accession does not lead to the creation of two parallel markets for the same product; whereas the aim laid down in that Article may be achieved within the framework of financing measures;

Whereas the expression 'any stock of product' covers both public and private stocks;

Whereas criteria should be defined to enable the quantity considered as a normal carry-over stock to be determined; whereas, to this end, account should be taken of the requirements of the Portuguese market for a period which may vary depending on the type of product;

Whereas, as a rule, the stocks to be eliminated at the expense of the Portuguese Republic may be determined from data already available or on the basis of estimates; whereas provision should nevertheless be made for the possibility of a survey;

Whereas, pursuant to the second sentence of Article 254 of the Act of Accession, the concept of normal carry-over stock shall be defined for each product on the basis of the criteria and objectives particular to each common organization of the markets;

Whereas, for tobacco, Article 297 of the Act of Accession provides that prices shall be fixed only for the first harvest following accession; whereas tobacco obtained from harvests preceding accession cannot be the subject of a market support measure and whereas, as a result, disposal thereof must be borne by the Portuguese Republic;

Whereas, pursuant to Article 2 (3) of the Treaty of Accession of Spain and Portugal, the institutions of the Communities may adopt, before accession, the measures referred to in Article 258 of the Act of Accession, such measures entering into force subject to, and on the date of, the entry into force of the said Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation shall lay down the general rules for the application of Article 254 of the Act of Accession.

Article 2

This Regulation shall not cover products:

— which may not be stored,

— in which there is no likelihood of speculation, or

— for which there are no export refunds, nor intervention within the meaning of Article 3 (1) of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy (1).

Article 3

1. Products shall be considered as being in free circulation in Portuguese territory where:

(a) they are obtained entirely in Portugal;

(b) they are:

— obtained totally or partly from products from countries other than Portugal, or

— imported into Portugal,

in respect of which import formalities have been completed and on which customs duties and equivalent charges have been collected in Portugal, without any total or partial drawback thereof.

2. With the exception of very small quantities, any quantity of products belonging to or held by the Portuguese Republic or by any natural or legal person shall be considered as stocks of products.

(1) OJ No L 94, 28. 4. 1970, p. 13.

Article 4

A survey may be taken in order to determine the stocks of products in Portuguese territory on 1 March 1986. However, in the case of products subject to transition in stages, this date shall be replaced for each sector by the date on which the second stage commences.

Article 5

1. Except where special provisions regarding certain products are adopted, the operating stocks necessary for the requirements of the Portuguese market for a period to be determined shall be considered as normal carry-over stocks.

The period shall be determined in such a way as to ensure smooth transition to the 1986/87 marketing year for each product concerned; where no marketing year exists, this period may not extend beyond 31 December 1986, or, in the case of the products referred to in the second sentence of Article 4, beyond 31 December of the year in which the second stage commences.

The requirements of the Portuguese market shall be assessed in particular on the basis of consumption, processing and traditional exports, bearing in mind the criteria and objectives particular to each common organization of the markets.

In the olive oil sector, the following shall be treated as normal carry-over stocks, up to a quantity to be determined:

— private stocks,

— public stocks.

2. However, stocks comprising quantities of products involved in abnormal and speculative movements shall not be considered as normal carry-over stocks.

For the purposes of applying this paragraph, a decrease in trade in the products concerned may be considered as an abnormal movement.

3. The quantities of two or more different products may be taken together for the assessment of the normal carry-over stock.

Article 6

1. While it shall be the subject of specific declarations to the Commission as part of the documents forwarded in accordance with Article 5 of Regulation (EEC) No 729/70, expenditure on refunds and, where appropriate, on intervention arising from the disposal of quantities of products of which stocks as referred to in the first sentence of Article 254 of the Act of Accession are determined shall not be taken into account by the European Agricultural Guidance and Guarantee Fund, Guarantee Section.

2. The quantities of products of which stocks as referred to in Article 254 of the Act of Accession are determined shall be considered as being disposed of first.

3. The quantity of product and the type of expenditure which shall not be taken into account shall be determined for each product concerned.

Where several types of expenditure may apply to one and the same product, the quantities of that product shall be determined for each type of expenditure and may vary with the latter. If the expenditure depends on the quality of the product, this shall also be taken into account.

4. Detailed rules for the application of paragraph 1 shall be adopted, as necessary, in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 7

Where the market situation, in the light in particular of patterns of trade and deliveries to intervention, indicates that the quantities of products taken into account for the determination of stocks are inappropriate, the Council, acting by a qualified majority on a proposal from the Commission, shall adopt the necessary measures.

Article 8

1. Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 38 of Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats [1] or, as the case may be, in corresponding Articles in other regulations on the common organization of the agricultural markets.

2. The detailed rules referred to in paragraph 1 shall relate in particular to:

(a) the determination of stocks as referred to in Article 254 of the Act of Accession in the case of products the quantities of which exceed normal carry-over stocks;

(b) the determination referred to in Article 6 (3);

(c) the notifications to be forwarded to the Commission by the Portuguese Republic;

(d) the procedures for disposing of surplus products.

[1] OJ No 172, 30. 9. 1966, p. 3025/66

3. The detailed rules referred to in paragraph 1 may make provision for:

(a) a list of products in respect of which the Portuguese Republic carries out a survey of stocks;

(b) the collection of a charge on export from the Member State of storage to another Member State or to a third country, in cases where the products are exported at an abnormally low price level bearing in mind the price level applying in the exporting Member State;

(c) the collection of a charge in cases where a party concerned does not comply with the procedures for disposing of surplus products.'

Article 9

This Regulation shall enter into force on 1 January 1986, subject to the entry into force of the Treaty of Accession of Spain and Portugal.

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

Done at Brussels, 20 December 1985

For the Council

The President

R. STEICHEN