COUNCIL REGULATION (EEC) No 3792/85

of 20 December 1985

laying down the arrangements applying to trade in agricultural products between Spain and 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 (hereinafter referred to as the 'Act') and in particular Articles 88 (1) and 256 (1) thereof,

Having regard to the proposal from the Commission,

Whereas, pursuant to the Joint Declaration attached to the Act, each of the new Member States shall apply in principle with respect to the other, the provisions and transitional mechanisms provided for in the Act under the arrangements applicable to their respective trade with the Community as constituted on 31 December 1985; whereas these arrangements are to be introduced taking into account, in the context of temporary measures, the existence of a classic transition and a transition by stages in the case of Portugal and the existence of a phase of verification of convergence in the fruit and vegetable sector in the case of Spain;

Whereas, however, with regard to cereals and rice, products of first-stage processing in the cereals and rice sector, wine and tomato-based products, the arrangements applicable to trade between the new Member States are to be adopted in accordance with the additional guidelines agreed within the negotiating conference;

Whereas in the wine sector in particular, with a view to facilitating the gradual liberalization of the market, provision should be made that the quantitative restrictions on mutual trade during the first stage be replaced from the start of the second stage by the supplemenary trade mechanism;

Whereas, with regard to the other products subject to the supplementary trade mechanism between each of the new Member States and the Community as constituted on 31 December 1985, it is desirable to provide for the possibility of extending the said mechanism to imports into Spain; whereas in the case of Portugal, on the other hand, the mechanism should be extended automatically to include imports from Spain in view of production conditions in Portugal;

Whereas, under 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 Articles 91 and 258 of the Act,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down the arrangements to apply between 1 March 1986 and 31 December 1995 to trade in agricultural products between Spain and Portugal.

Article 2

In the case of products subject to customs duties on import from third countries into the Community as constituted on 31 December 1985:

1. duties on products imported into Spain from Portugal shall be progressively abolished in the manner set out in point 1 of Article 75 of the Act, without projudice to points 4 and 5 thereof;

2. duties on imports into Portugal from Spain of:

   — products subject to classic transition under Article 235 of the Act shall be progressively abolished in the manner set out in point 1 (b), (c) and (d) of the Act, without prejudice to point 4 thereof;

   — products subject to transition by stages under Article 259 of the Act shall be abolished in the manner set out in Article 268 (1) and (2) (b) of the Act, without prejudice to Article 268 (4) thereof.

   However, in the case of the liqueur wines referred to in the first indent of the second subparagraph of Article 268 (3), customs duties on imports into Portugal shall be progressively abolished in accordance with the following timetable:

   — on 1 March 1986, each duty shall be reduced to 87,5 % of the basic duty,

   — on 1 January 1987, each duty shall be reduced to 75 % of the basic duty,

   — on 1 January 1988, each duty shall be reduced to 62,5 % of the basic duty,

   — on 1 January 1989, each duty shall be reduced to 50 % of the basic duty,

   — on 1 January 1990, each duty shall be reduced to 37,5 % of the basic duty,

   — on 1 January 1991, each duty shall be reduced to 25 % of the basic duty,

— on 1 January 1992, each duty shall be reduced to 12,5 % of the basic duty,

— on 1 January 1993, all duty shall be abolished.

3. for the purpose of points 1 and 2, the basic duty shall be the duty actually applied on 1 January 1985 to products originating in Spain and Portugal and traded between them.

However:

— in the case of liqueur wines subject in trade between Spain and Portugal to tariff quotas at a reduced level of duty under national arrangements prior to accession, the basic duties shall be those actually applied under such quotas. Quotas applied under national arrangements prior to accession shall be abolished with effect from 1 March 1986;

— in the case of prepared or preserved tomatoes, the basic duties shall be those specified for Spain in point 3 of Article 75 and Annex VIII of the Act.

— in the case of oilseeds and oleaginous fruit falling within subheading 12.01 B of the Common Customs Tariff and products falling within heading No 12.02 and subheading 23.04 of the Common Customs Tariff, the basic duties in Spain shall be those defined under point 3 of Article 75 of the Act.

Article 3

The compensatory amounts to apply in trade between the new Member States shall be based on the compensatory amounts fixed for each of them in their trade with the Community as constituted on 31 December 1985:

— with effect from 1 March 1986 in the case of products subject to classic transition in Spain and Portugal;

— with effect from the start of the second stage in the case of products subject to classic transition in Spain and transition by stages in Portugal.

The following provisions of the Act shall apply:

— points 2, 4, 5 and 6 of Article 72 and Article 74 (1),

— points 2, 4, 5 and 6 of Article 240 and Article 242 (1).

The compensatory amounts shall be levied by the importing Member State or granted by the exporting Member State.

Article 4

In the case of products subject to classic transition in Spain and transition by stages in Portugal, the following shall apply subject to Articles 8 and 9 of this Regulation:

1. During the first stage, the Kingdom of Spain shall apply, *mutatis mutandis*,

— to imports from Portugal the arrangements applied to Portugal by the Community as constituted on 31 December 1985 under Article 272 of the Act, subject to Article 2 of this Regulations.

— to exports to Portugal the arrangements applied to Portugal by the Community as constituted on 31 December 1985 under Article 275 of the Act.

2. During the second stage, the Kingdom of Spain shall apply in its trade with Portugal, *mutatis mutandis*, the arrangements applied to Portugal by the Community as constituted on 31 December 1985, subject to Articles 2 and 3 of this Regulation.

3. During the first stage, the Portuguese Republic shall apply in its trade with Spain the arrangements, for both imports and exports, resulting from Article 267 of the Act, subject to point 4 of this Article and to Article 2 of this Regulation.

4. During the first stage, Articles 269 (1), 270 and 271 of the Act shall apply *mutatis mutandis* to Portugal's trade with Spain.

However, up to the end of the first stage the Portuguese Republic may impose quantitative restrictions on imports from Spain of the products listed in Annex I as follows:

(a) The said quantitative restrictions shall consist of annual quotas opened without discrimination between economic operators.

The initial quota in 1986 for each product, expressed as the case may be in terms of volume or in ECU, shall be fixed at:

— either 1 % of the average of Portugal's annual production during the last three years before accession for which statistics are available,

— or the average of Portugal's imports over the last three years before accession for which statistics are available, where this volume or amount is greater.

However, in respect of the products listed in Annex II hereto,

— the first ident of the preceding subparagraph shall not apply;

— where the result of the second indent of the preceding subparagraph would be the fixing of

an initial quota 10 % less than the initial quota to be fixed for the same products coming from the Community as constituted on 31 December 1985 the initial quota to be applied by the Portuguese Republic with regard to the Kingdom of Spain shall be at least 10 % of the initial quota to be fixed when coming from the other Member States.

The minimum rate of increase of the quotas shall be 15 % at the beginning of each year with respect to the quotas expressed in terms of value and 10 % at the beginning of each year with respect to the quotas expressed in terms of volume.

Each increase shall be added to the existing quota, with the next increase being calculated from the new total obtained.

The quota for the period from 1 March to 31 December 1986 shall be equal to the initial quota less one-sixth.

(b) Quotas as calculated under (a) shall be added to the quotas determined under Article 269 of the Act. Point (d) of Article 269 (2) thereof shall apply to the combined quotas so calculated.

5. During the second stage, the Portuguese Republic shall apply in its trade with Spain, *mutatis mutandis*, the arrangements applied with respect to the Community as constituted on 31 December 1985, subject to Articles 2 and 3 of this Regulation.

Article 5

1. Should imports into Spain from Portugal show, or show signs of, a significant increase, it may be decided under the procedure provided for 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, where relevant, the equivalent Articles of the other Regulations introducing common organizations of agricultural markets, to make the products referred to in Article 81 (2) (b) (bb) and (dd) of the Act subject to the supplementary trade mechanism, hereinafter referred to as 'the STM'.

Where the preceding subparagraph becomes operative, Articles 83, 84 and 85 of the Act shall apply *mutatis mutandis*, the 'guide' quantities referred to in Article 84 being increased in such a way as to ensure that harmonious evolution of traditional imports from Portugal.

2. In the case of imports into Portugal from Spain, the STM shall apply to the products listed in Annex XXII to the Act and, from the start of the second stage, to the products contained in the list to be drawn up under Article 286 (2) of the Act. Articles 249 to 252 of the Act shall apply *mutatis mutandis*.

(1) OJ No 172, 30. 9. 1966, p. 3025/66.

Article 6

1. Until 31 December 1990, the system of quantitative control referred to in Article 94 of the Act shall apply on the Spanish domestic market to imports into Spain from Portugal of the products referred to in Article 1 (2) of Regulation No 136/66/EEC under:

— point (a) thereof, excluding soya beans falling within subheading ex 12.01 B of the Common Customs Tariff,

— point (b) thereof, excluding products falling within subheadings 15.17 B II and 23.04 B of the Common Customs Tariff.

2. Until 31 December 1990, the system of quantitative control referred to in Article 292 of the Act shall apply to imports into Portugal from Spain of oilseeds and oleaginous fruit, meal from which the oil has not been extracted and all vegetable oils, except olive oil, intended for human consumption on the Portuguese domestic market.

3. Articles 93 (4) and 291 (4) of the Act shall apply *mutatis mutandis* to trade between Spain and Portugal.

4. Articles 95 (3) and 293 (3) of the Act shall apply *mutatis mutandis* to oilseeds produced in Spain and processed in Portugal or produced in Portugal and processed in Spain.

Article 7

Under the tendering procedures initiated by Portugal under point (b) of Article 320 (2) of the Act, tenders relating to cereals and rice originating in Spain shall be adjusted by:

— the difference between the market price in the Community and the world market price, amended by the compensatory amount applying under Article 72 of the Act,

— a flat-rate preference factor equal to 5 ECU per tonne.

The minimum quantity referred to in point (c) of Article 320 (2) of the Act shall be increased by 0,5 % of the total quantity of the products concerned imported into Portugal.

The quantity which Portugal is required to buy from other Member States shall in total be the minimum quantity as increased in accordance with the preceding subparagraph.

Article 8

In trade between Spain and Portugal during the first stage, the importing Member State shall collect a levy on products deriving from primary processing in the cereals and rice

sectors, as covered, respectively, by Regulation (EEC) No 2727/75 [1] and No 1418/76 [2], to consist of two components:

(a) a variable component reflecting the effect on the cost price of such products of the difference in price for the basic products as between Spain and Portugal;

(b) a fixed component equivalent to that applied from 1 March 1986 by the importing state to imports from the Community as constituted on 31 December 1985.

From the start of the second stage, the fixed component shall be progressively reduced as follows:

— on 1 January 1991, to 83,3 % of the initial amount,

— on 1 January 1992, to 66,6 % of the initial amount,

— on 1 January 1993, to 49,9 % of the initial amount,

— on 1 January 1994, to 33,2 % of the initial amount,

— on 1 January 1995, to 16,5 % of the initial amount,

— on 1 January 1996 the fixed component shall be abolished.

Article 9

1. In the case of products covered by Council Regulation (EEC) No 337/79 of 5 February 1979 on the common organization of the market in wine [3], the Kingdom of Spain and the Portuguese Republic may apply in mutual trade, until the end of the first stage, quantitative restrictions on imports of the following:

CCT heading No	Description
22.05	Wine of fresh grapes; grape must with fermentation arrested by the addition of alcohol:
	ex B. Wine other than that referred to in A in bottles with 'mushroom' stoppers held in place by ties or fastenings; wine otherwise put up with an excess pressure due to carbon dioxide in solution of not less then 1 bar but less than 3 bar, measured at a temperature of 20 °C:
	— Wine put up other than in bottles with 'mushroom' stoppers held in place by ties or fastenings, with an excess pressure due to carbon dioxide in solution of not less than 1 bar but less than 3 bar, measured at a temperature of 20 °C:
22.05 *(Cont'd)*	C. Other:
	I. Of an actual alcoholic strength by volume not exceeding 13 % vol
	II. Of an actual alcoholic strength by volume exceeding 13 % vol but not exceeding 15 % vol

2. (a) The quantitative restrictions referred to in paragraph 1 shall consist of annual quotas opened without discrimination between economic operators.

The initial quota for 1986 in each product, in volume terms, is hereby fixed in respect of the importing Member State at:

— either 0,1 % of average annual production in the importing Member State during the three years prior to accession for which statistics are available;

— or the average level of imports from the exporting new Member State during the three years prior to accession for which statistics are available, where this volume is greater.

(b) The minimum rate of progressive increase of the quotas shall be 10 % at the beginning of each year.

Each increase shall be added to the existing quota, with the next increase being calculated from the new total.

(c) The quota for the period from 1 March to 31 December 1986 shall be equal to the initial quota less one-sixth.

(d) Where imports into Spain during two consecutive years are less than 90 % of the annual quota, the quantitative restrictions in force in Spain shall be abolished.

(e) In respect of Portugal, the quota resulting under points (a), (b) and (c) shall be added to the quota pursuant to Article 269 of the Act. Point (d) of Article 269 (2) thereof shall apply to the total quota so calculated.

3. During the second stage, the products referred to in paragraph 1 shall be subject to the STM as defined in

— Articles 81, 82, 83 and 85 of the Act, in the case of Spain,

— Articles 249 to 252 of the Act, in the case of Portugal.

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 166, 25. 6. 1976, p. 1.
(3) OJ No L 54, 5. 3. 1979, p. 1.

Article 10

In the case of the products covered by Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables (1):

1. During the phase of verification of convergence referred to in Article 131 of the Act, the Kingdom of Spain shall apply the arrangements set out in Article 136 of the Act to both imports and exports in its trade with Portugal, subject to point 2 below and Article 2 of this Regulation.

2. During the said first phase, Articles 137 (1), 138, 139 and 142 of the Act shall apply *mutatis mutandis* to trade between Spain and Portugal.

   However, until 31 December 1989 the Kingdom of Spain may apply quantitative restrictions to imports from Portugal of the products listed in Annex III.

3. During the second phase, should imports into Spain from Portugal show or be likely to show a significant increase, it may be decided under the procedure provided for in Article 33 of Regulation (EEC) No 1035/72 to make one or more of the products referred to in point (b) (cc) of Article 81 (2) of the Act subject to the STM.

   Should the preceding subparagraph be applicable, Articles 81, 82, 83 and 85 of the Act shall apply *mutatis mutandis*.

4. During the first stage, the Portuguese Republic shall apply to both imports and exports in its trade with Spain the arrangements set out in Article 267 of the Act, subject to point 5 below and to Article 2 of this Regulation.

5. During the first stage, Articles 269 (1), 270 and 271 of the Act shall apply *mutatis mutandis* to trade between Spain and Portugal.

   However, until the end of the first stage the Portuguese Republic may apply quantitative restrictions to imports from Spain of the products listed in Annex IV.

6. During the second stage, imports into Portugal from Spain of the products contained in the list to be drawn up under Article 286 (2) of the Act shall be subject to the STM. Articles 249 to 252 of the Act shall apply *mutatis mutandis*.

Article 11

1. The quantitative restrictions referred to in Article 10 (2) and (5) shall be annual quotas opened without discrimination between economic operators as follows:

(a) the initial quota for 1986 in each product, in volume terms, shall be fixed at:

   — either 0,6 % of the average annual production of the importing Member State during the last three years prior to accession for which statistics are available.

   — or the average level of imports from the exporting new Member State over the last three years prior to accession for which statistics are available, where this volume is greater.

(b) the minimum rate of progressive increase of the quotas shall be 10 % at the beginning of each year.

   Each increase shall be added to the existing quota, with the next increase being calculated from the new total.

(c) The quota for the period from 1 March to 31 December 1986 shall be equal to the initial quota less one-sixth.

(d) Quotas as calculated under (a), (b) and (c) shall be added to the quotas determined under Articles 137 and 269 of the Act. Articles 137 (3) (d) and 269 (2) (d) thereof shall apply to the combined quotas so calculated.

2. Under the quantitative restrictions referred to in Article 10 (2), imports into Spain of the products listed in Annex V hereto shall be governed by a timetable giving the import quantities which are defined as a proportion of each year's quota.

Article 12

In the case of imports into Portugal of agricultural products originating in the Canary Islands which are listed in Annex A to Protocol No 2 attached to the Act, Article 4 (1) of the said Protocol shall apply *mutatis mutandis* subject to Article 2 of this Regulation.

Article 13

1. The detailed rules implementing this Regulation shall be drawn up under the procedure provided for in Article 38 of Regulation No 136/66/EEC or, where relevant, the equivalent Articles of the other Regulations introducing common organizations of the market.

The implementing rules applying to:

— live pigs, pure-bred breeding animals, falling within subheading 01.03 A I of the Common Customs Tariff shall be drawn up under the procedure provided for in Article 24 of Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organization of the market in pigmeat (1) by the Management Committee set up under that Regulation;

— other eggs falling within subheading 04.05 A II of the Common Customs Tariff shall be drawn up under the procedure provided for in Article 17 of Council

(1) OJ No L 118, 20. 5. 1972, p. 1.

(1) OJ No L 282, 1. 1. 1975, p. 1.

Regulation (EEC) No 2771/75 of 29 October 1975 on the common organization of the market in eggs (1) by the Management Committee set up under that Regulation;

— new potatoes falling within subheading 07.01 A II of the Common Customs Tariff and avocadoes falling within subheading 08.01 D of the Common Customs Tariff shall be drawn up undet the procedure provided for in Article 33 of Regulation (EEC) No 1035/72 by the Management Committee set up under that Regulation.

2. The detailed rules referred to in paragraph 1 shall include fixing the initial quotas referred to in Articles 4, 9 and 10 of this Regulation.

Article 14

This Regulation shall enter into force on 1 March 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

(1) OJ No L 282, 1. 11. 1975, p. 49.

ANNEX I

CCT heading No	Description
01.03	Live swine A. Domestic species
01.05	Live poultry, that is to say, fowls, ducks, geese, turkeys and guinea fowls: A. Of a weight not exceeding 185 g: ex I. Turkeys and geese — Turkeys ex II. Other — Hens
02.01	Meat and edible offals of the animals falling within Heading No 01.01, 01.02, 01.03 or 01.04, fresh, chilled or frozen: A. Meat: III. Of swine: a) Of domestic swine B. Offals: II. Other: c) Of domestic swine
04.04	Cheese and curd: D. Processed cheese, not grated or powdered, of a fat content, by weight: E. Other: I. Not grated or powdered, of a fat content, by weight, not exceeding 40 % and a water content, calculated by weight of the non-fatty matter: b) Exceeding 47 % but not exceeding 72 %: ex 1. Cheddar: — of the 'Ilha' type ex 2. Other: — of the 'Holland' type
04.05	Birds' eggs and egg yolks, fresh, dried or otherwise preserved, sweetened or not: A. Eggs in shell, fresh or preserved: I. Poultry eggs: a) Eggs for hatching: ex 1. Of turkeys or geese — Of turkeys ex 2. Other: — Of hens II. Other eggs
11.08	Starches; inulin: A. Starches I. Maize starch
15.01	Lard, other pig fat and poultry fat, rendered or solvent-extracted: A. Lard and other pig fat: II. Other

ANNEX II

CCT heading No	Description
01.03	Live swine A. Domestic species
01.05	Live poultry, that is to say, fowls, ducks, geese, turkeys and guinea fowls: A. Of a weight not exceeding 185 g: ex I. Turkeys and geese — Turkeys ex II. Other — Hens
02.01	Meat and edible offals of the animals falling within Heading No 01.01, 01.02, 01.03 or 01.04, fresh, chilled or frozen: A. Meat: III. Of swine: a) Of domestic swine B. Offals: II. Other: c) Of domestic swine
04.05	Birds' eggs and egg yolks, fresh, dried or otherwise preserved, sweetened or not: A. Eggs in shell, fresh or preserved: I. Poultry eggs: a) Eggs for hatching: ex 1. Of turkeys or geese — of turkeys
15.01	Lard, other pig fat and poultry fat, rendered or solvent-extracted: A. Lard and other pig fat: II. Other

ANNEX III

CCT heading No	Description
07.01	Vegetables, fresh or chilled:
	B. Cabbages, cauliflowers and Brussels sprouts:
	I. Cauliflowers
	G. Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots:
	ex II. Carrots and turnips
	— Carrots
	ex H. Onions, shallots and garlic:
	— Onions and garlic
	M. Tomatoes
08.02	Citrus fruit, fresh or dried:
	A. Oranges
	B. Mandarins (including tangerines and satsumas); clementines, wilkings and other similar citrus hybrids:
	ex II. Other:
	— Mandarins (including tangrines and satsumas)
	C. Lemons
08.04	Grapes, fresh or dried:
	A. Fresh:
	I. Table grapes
08.06	Apples, pears and quinces, fresh:
	A. Apples
	B. Pears
08.07	Stone fruit, fresh:
	A. Apricots
	ex B. Peaches, including nectarines
	— Peaches

ANNEX IV

CCT heading No	Description
07.01	Vegetables, fresh or chilled: B. Cabbages, cauliflowers and Brussels sprouts: I. Cauliflowers: ex a) From 15 April to 30 November: — From 1 to 30 November ex b) From 1 December to 14 April: — From 1 December to 31 March ex H. Onions, shallots and garlic: — Onions, from 1 August to 30 November — Garlic, from 1 August to 31 December M. Tomatoes: ex I. From 1 November to 14 May — From 1 December to 14 May ex II. From 15 May to 31 October — From 15 May to 31 May
08.02	Citrus fruit, fresh or dried: A. Oranges I. Sweet oranges, fresh: a) From 1 April to 30 April b) From 1 May to 15 May ex c) From 16 May to 15 October — From 16 May to 31 August ex d) From 16 October to 31 March — From 1 February to 31 March II. Other: ex a) From 1 April to 15 October — From 1 April to 31 August ex b) From 16 October to 31 March — From 1 February to 31 March B. Mandarins (including tangerines and satsumas); clementines, wilkings and other similar citrus hybrids: ex II. Other: — Mandarins, including tangerines and satsumas from 1 November to 31 March ex C. Lemons: — From 1 June to 31 October
08.04	Grapes, fresh or dried: A. Fresh: I. Table grapes: ex b) From 15 July to 31 October — From 15 August to 30 September
08.06	Apples, pears and quinces, fresh: A. Apples: II. Other: ex b) From 1 January to 31 March — From 1 to 31 March ex c) From 1 April to 31 July — From 1 April to 30 June

CCT heading No	Description
08.06 *(continued)*	B. Pears: II. Other: ex a) From 1 January to 31 March — From 1 February to 31 March b) From 1 April to 15 July c) From 16 July to 31 July ex d) From 1 August to 31 December — From 1 to 31 August
08.07	Stone fruit, fresh: ex A. Apricots: — From 15 June to 15 July ex B. Peaches, including nectarines: — Peaches, from 1 May to 30 September

ANNEX V

CCT heading No	Description	Quantity expressed as a percentage of the annual quota
08.06	Apples, pears and quinces, fresh:	
	A. Apples:	
	ex I. Cider apples in bulk from 16 September to 15 December:	
	— from 16 September to 30 November	15 %
	II. Other:	
	ex a) from 1 August to 31 December:	
	— from 1 September to 30 November	
	B. Pears	
	ex I. Perry pears in bulk from 1 August to 31 December:	
	— from 1 August to 16 December	
	II. Other:	25 %
	c) from 16 July to 31 July	
	ex d) from 1 August to 31 December:	
	— from 1 August to 16 December	
08.07	Stone fruits, fresh:	
	ex A. Apricots:	
	— from 1 May to 31 July	25 %
	ex B. Peaches, including nectarines:	
	— Peaches from 15 June to 15 September	25%