COUNCIL REGULATION (EEC) No 569/86

of 25 February 1986

laying down general rules for the application of the supplementary mechanism applicable to trade

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 89 (1) and Article 234 (2) thereof,

Having regard to the proposal from the Commission,

Whereas Articles 81 and 249 of the Act of Accession provided for the introduction of a supplementary mechanism applicable to trade; whereas the aim of that mechanism is to monitor the development of trade and to apply the requisite measures provided for in the Act;

Whereas the additional guidelines agreed on at the conference contained directions relating to the way in which the said mechanism is to operate; whereas those directions provided for the issuing of certificates or licences involving the provision of a security guaranteeing the completion of the transactions in respect of which applications were made for such certificates or licences;

Whereas the application of the supplementary trade mechanism must not result in Community products being treated less favourably than products from third countries;

Whereas the trend in imports from third countries should be monitored in the same way as the trend in Community imports;

Whereas where the deterioration on the market of the Community or of any one of its regions is due to imports from third countries, the measures to be taken in respect thereof are adopted pursuant to and in accordance with the mechanisms already provided for by the common organization of the markets;

Whereas Article 81 (6) and Article 249 (3) provided for an annual report on the functioning of the mechanism during the previous year; whereas adaptations to this Regulation may be proposed on the basis of that report;

Whereas as regards trade between the Community as constituted at 31 December 1985 and Spain, products of the fruit and vegetable sector covered by Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables [1] as last amended by Regulation (EEC) No 3768/85 [2] shall, in accordance with Article 81 (1) of the Act, not be subject to the mechanism until 1 January 1990;

Whereas the provisions of Article 286 (2) of the Act concerning trade between the Community as constituted at 31 December 1985 and Portugal shall apply only as from the second stage,

HAS ADOPTED THIS REGULATION:

Article 1

1. Where products from a Member State are subject to the supplementary mechanism applicable to trade, hereinafter referred to as 'STM', such products may be released for consumption in the importing Member State only on presentation of an STM certificate or licence.

2. STM certificates or licences shall be issued on application by any party, wherever his establishment is located in the Community.

3. STM certificates or licences shall be issued subject to the provision of a security, guaranteeing compliance with the undertaking to release for consumption during the period of validity of the STM certificate or licence, which shall be wholly or partly forfeit if the transaction is not completed within that time or is only partly completed.

4. STM certificates or licences may be issued only by a Member State other than the Member State of entry for consumption. For the purpose of applying this paragraph, the Member States of the Community as constituted at 31 December 1985 shall be considered as a single Member State.

Article 2

1. Where products from a third country enter into free circulation in Spain and where such products are the same as those referred to in Article 84 (1) of the Act of Accession, the quantity thereof which may enter into free circulation in Spain may not exceed a quantity equivalent to that resulting from the application of Article 84 of that Act.

2. The quantities referred to in paragraph 1 shall constitute quantitative restrictions within the meaning of Article 3 (3).

[1] OJ No L 118, 20. 5. 1972, p. 1.
[2] OJ No L 362, 31. 12. 1985, p. 8.

Article 3

1. Where products from third countries enter into free circulation in the Member State in which the STM applies, release for free circulation may be carried out only on presentation of an STM import licence. STM import licences shall be valid only in the Member State in which the STM applies.

For the purposes of applying this paragraph, the Member States of the Community as constituted at 31 December 1985 shall be considered as a single Member State, without prejudice to paragraph 3.

2. Paragraph 1 shall apply only to the products falling within the tariff headings in respect of which Article 1 applies.

3. Paragraph 1 shall not apply to products from third countries which are subject to quantitive restrictions in the Member State in which the STM applies.

4. STM import licences shall be issued on application by any party, wherever his establishment is located in the Community.

5. STM import licences shall be subject to the provision of a security, guaranteeing compliance with the undertaking to release for free circulation during the period of validity of the licence, which shall be wholly or partly forfeit if the transaction is not completed within that time or is only partly completed.

6. STM import licences shall be issued by any Member State.

7. Save where special provisions are laid down, STM import licences shall replace the import licences laid down for certain products by Community rules.

Article 4

1. The issuing of STM certificates and STM import licences may be:

— limited to certain products in a sector,

— spread out over the year.

2. Time limits may be set for the issuing of STM certificates and STM import licences.

Article 5

1. Where the situation on the market calls for a limitation or suspension of imports on the market of the Member State concerned, the issuing of STM certificates or licences may be limited or suspended.

2. In such cases and where regional application of these measures is concerned, provision may be made for the certificates or licences issued to be valid only in a Member State other than the Member State concerned.

Article 6

To assess the market situation of a Member State subject to the STM, account shall be taken in particular of:

— the trend in domestic prices in the Member State concerned;

— the trend in domestic demand in the Member State concerned;

— the quantities of products forming the subject of trade without further processing or after processing, between the Member State concerned and the other Member States and third countries.

Article 7

1. Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC of the Council of 22 September 1966 on the establishment of a common organization of the market in oils and fats [1], as last amended by Regulation (EEC) No 3768/85 [2] or, as the case may be, in the corresponding Articles in the other Regulations on the common organization of agricultural markets.

2. Detailed rules of application relating to products covered by Council Regulation (EEC) No 827/68 of 28 June 1968 on the common organization of the market in certain products listed in Annex II to the Treaty [3], as last amended by Regulation (EEC) No 2966/80 [4], and to new potatoes falling within subheading 07.01 A II of the Common Customs Tariff shall be adopted in accordance with the procedure laid down in Article 33 of Regulation (EEC) No 1035/72, the Management Committee established by that Regulation being competent.

Article 8

1. On the basis of the annual report referred to in Article 81 (6) and Article 249 (3) of the Act of Accession, and in the light of experience, the Council, acting by a qualified majority on a proposal from the Commission, may alter the arrangements laid down in this Regulation.

2. The Council shall adopt any amendments before 31 March each year.

Article 9

1. This Regulation shall enter into force on 1 March 1986.

2. In accordance with Article 81 (1), and, where appropriate, with Article 249 of the Act of Accession, this Regulation shall not immediately apply to fruit and vegetable sector products covered by Regulation (EEC) No 1035/72. If before the date of application of the supplementary trade mechanism to these products the Council, acting by a qualified majority on a proposal from the Commission, does not adopt special provisions for these products, this Regulation shall apply.

[1] OJ No 172, 30. 9. 1966, p. 3025/66.
[2] OJ No L 362, 31. 12. 1985, p. 8.
[3] OJ No L 151, 30. 6. 1968, p. 16.
[4] OJ No L 307, 18. 11. 1980, p. 5.

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

Done at Brussels, 25 February 1986.

For the Council

The President

G. BRAKS