COUNCIL REGULATION (EEC) No 3210/89

of 23 October 1989

laying down general rules for applying the supplementary trade mechanism to fresh fruit and vegetables

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) thereof,

Having regard to the proposal from the Commission,

Whereas Article 81 of the Act of Accession made provision for the application, from 1 January 1990 to 31 December 1995, of a supplementary mechanism to trade between Spain and the Community in 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), as last amended by Regulation (EEC) No 1119/89 (2); whereas, pursuant to paragraph 3 (b) of that Article, Commission Regulation (EEC) No 816/89 of 30 March 1989 establishing the list of products subject to the supplementary trade mechanism in the fresh fruit and vegetables sector (3) reduced the said list to certain products only and restricted application of the mechanism to products imported from Spain into the Community as constituted on 31 December 1985;

Whereas Article 9 (2) of Council Regulation (EEC) No 569/86 of 25 February 1986 laying down general rules for the application of the supplementary mechanism applicable to trade (4), as last amended by Regulation (EEC) No 3296/88 (5), states that the said Regulation is to apply to fruit and vegetable sector products covered by Regulation (EEC) No 1035/72 only if the Council does not adopt special provisions for these products;

Whereas, in view of the foregoing, in the light of the experience acquired from the operation of the existing supplementary trade mechanism, and given the restricted length of the production periods and sensitive periods for fruit and vegetables and the marketing structures in the exporting country, a special mechanism should be introduced for the products in question, to forestall or, as the case may be, allow prompt and appropriate action on any market disturbances;

Whereas for non-sensitive periods simple statistical monitoring will be adequate; whereas, in sensitive periods, an exit document not requiring the lodging of security will be issued for exports from Spain; whereas provision should be made so that the Kingdom of Spain can be authorized to restrict the issuing of such documents under certain conditions and during periods which, on the basis of objective indicators, are considered very sensitive;

Whereas provision should be made so that the Commission can introduce specific arrangements applicable to trade in fruit and vegetables from third countries in order to ensure that Spanish products are not treated less favourably than those from third countries enjoying most-favoured-nation treatment;

Whereas where the deterioration on the market of the Community of 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 the provisions of this Regulation are without prejudice to the supplementary trade mechanism that may be applied as from 1 January 1991 to trade between Spain and Portugal and between the Community as constituted on 31 December 1985 and Portugal,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down general rules for the application of the supplementary trade mechanism, hereafter referred to as 'STM', to fruit and vegetable products covered by Regulation (EEC) No 1035/72 that are exported from Spain to the Community as constituted on 31 December 1985.

Article 2

1. For each of the products subject to the STM arrangement one or more of the following periods shall be determined for each marketing year:

— a period I when the market is not sensitive,

— a period II when the market is sensitive,

— a period III when the market is very sensitive.

(1) OJ No L 118, 20. 5. 1972, p. 1.
(2) OJ No L 118, 29. 4. 1989, p. 12.
(3) OJ No L 86, 31. 3. 1989, p. 35.
(4) OJ No L 55, 1. 3. 1986, p. 106.
(5) OJ No L 293, 27. 10. 1988, p. 7.

2. Periods shall be determined on the basis of data and forecasts for the Community market covering:

— the various production periods,

— the foreseeable trend of production and consumption,

— the foreseeable trend of exports from Spain and their specific effect on market balance.

3. The period or periods shall normally be set before the beginning of the marketing year, at the same time as the indicative import ceiling mentioned in Article 83 (1) of the Act of Accession. They may be adjusted in the course of the marketing year.

4. The periods shall be set and possibly adjusted in accordance with the procedure referred to in Article 9.

Article 3

The indicative import ceiling may be set for the whole marketing year or for one or more of the periods determined pursuant to Article 2. Separate ceilings may be set for shorter periods than the latter.

Article 4

During period I, exports from Spain shall be statistically monitored. The Kingdom of Spain shall periodically report to the Commission on how the situation is developing.

Article 5

1. During periods II and III, the export from Spain of a product covered by the STM shall be subject to submission of an exit document.

This document shall be issued by the Kingdom of Spain at the exporter's request.

2. During period II, exit documents shall be issued without restriction.

During period III, the issue may be subject to restrictions.

3. The Kingdom of Spain shall verify that exit documents are actually used; however the lodging of a security may not be demanded.

Measures necessary to ensure effective operation of the mechanism may be adopted in accordance with the procedure referred to in Article 9.

Article 6

1. During period III, the Kingdom of Spain may, on the basis of the objective indicators listed in Article 7, be authorized, under the procedure referred to in Article 9, to restrict the issue of exit documents.

2. Such restriction shall observe objective criteria and shall not be discriminatory. These criteria shall in particular provide for the priority issue of exit documents to traditional exporters, a small quantity being nevertheless reserved for new operators.

Article 7

The Commission shall assess the Community market situation, whether as a whole or region by region, on the basis of the following objective indicators:

— quantities produced in Spain,

— forecasts for exports from Spain to the rest of the Community,

— quantities actually exported,

— quantities produced in the remainder of the Community as well as those marketed in the Community,

— market price quotations for comparable products,

— quantities taken into intervention,

— any other relevant fact of an objective nature.

Article 8

During period III, and also during the period of application of any measures taken pursuant to Article 85 (1) and (2) of the Act of Accession, the Commission may, to the extent strictly necessary, subject comparable imports from third countries to special surveillance.

Article 9

Detailed provisions for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 33 of Regulation (EEC) No 1035/72. These shall cover in particular:

— statistical monitoring,

— the issue and use of the exit document,

— periodic communications by the Member States for STM application purposes.

Article 10

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

It shall apply from 1 January 1990 to 31 December 1995.

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

Done at Luxembourg, 23 October 1989.

For the Council

The President

H. NALLET