COUNCIL REGULATION (EEC) No 3649/90

of 11 December 1990

laying down general rules for the mechanism for the protection of the Portuguese market in fruit and vegetables provided for in Article 318 (2) of the Act of Accession of 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, and in particular Article 234 (2) thereof,

Having regard to the proposal from the Commission,

Whereas Article 318 (2) of the Act of Accession lays down that, should the Portuguese market be disturbed as a result of imports from the Community as constituted at 31 December 1985, appropriate measures may be adopted during the second stage of the transition period with regard to those fruit and vegetables for which a reference price is fixed; whereas, the joint declaration annexed to the Act states that, in their mutual trade in agricultural products, the new Member States are in principle to apply, with respect to each other, the provisions and transitional mechanisms provided for in the Act of Accession under the arrangements applicable to their respective trade with the Community as constituted at 31 December 1985; whereas Council Regulation (EEC) No 3792/85 of 20 December 1985 laying down the arrangements applying to trade in agricultural products between Spain and Portugal [1], as last amended by Commission Regulation (EEC) No 3296/88 [2], did not provide for the application of the mechanism in question; whereas it is appropriate that such a mechanism be applied in the context of this Regulation;

Whereas the abovementioned appropriate measures should consist of a mechanism for the protection of the Portuguese market in the products in question, to be introduced by the Commission in the event of disruption of that market;

Whereas, for the purposes of definition, the protection mechanism should incorporate, in simplified form in view of their exceptional nature, the provisions of the system of reference prices introduced by Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables [3], as last amended by Regulation (EEC) No 1193/90 [4]; whereas a representative price for the Portuguese market should therefore be fixed and a corrective amount, over and above the customs duty, should be levied where the price on entry into Portugal of products from the other Member States is below the representative price;

Whereas, to enable this mechanism to be implemented rapidly and to facilitate administration thereof, it should be laid down that Portugal is to fix the representative price and the corrective amounts in accordance with the method set out in this Regulation;

HAS ADOPTED THIS REGULATION:

Article 1

1. If, during the second stage of the transition period, the Portuguese market is disrupted by imports from the other Member States, the Commission, acting at the request of Portugal and in accordance with the procedure laid down in Article 33 of Regulation (EEC) No 1035/72, may introduce a mechanism for the protection of the Portuguese market from imports from the other Member States of fruit and vegetables for which a reference price is fixed with respect to third countries.

2. The decision referred to in paragraph 1 shall determine the period of application of the mechanism and the products to which it applies.

3. The mechanism shall be based on a comparison of a Portuguese representative price, fixed in accordance with Article 2, and a price on entry into Portugal, calculated in accordance with Article 3. It shall be governed by the provisions of Articles 4 and 5.

Article 2

1. The Portuguese representative price shall be fixed by Portugal. It shall be calculated:

(1) OJ No L 367, 31. 12. 1985, p. 7.
(2) OJ No L 293, 27. 10. 1988, p. 7.
(3) OJ No L 118, 20. 5. 1972, p. 1.
(4) OJ No L 119, 11. 5. 1990, p. 43.

— on the basis of the arithmetical mean of producer prices in Portugal plus packaging and transport costs from the production regions to the consumption centres representative of Portugal,

— taking into account the trend in production costs.

The producer prices shall be those determined in accordance with Article 23 (3) of Regulation (EEC) No 1035/72.

2. The transport costs referred to in paragraph 1 may be calculated at a standard rate.

3. The Portuguese representative price may not exceed the reference price applied with respect to third countries.

Article 3

1. For the products for which a Portuguese representative price has been fixed, Portugal shall regularly monitor, for a product with defined commercial characteristics, the trend of average prices of products imported from the other Member States in accordance with the conditions laid down in Article 24 (1) of Regulation (EEC) No 1035/72.

2. The price on entry into Portugal shall be calculated by Portugal each marketing day in Portugal, on the basis of the representative prices for imports from the other Member States, recorded at, or converted to, the import/wholesale stage.

3. The representative prices shall be determined in accordance with Article 24 (2) of Regulation (EEC) No 1035/72.

4. The entry price shall be equal to the lowest representative price or to the average of the lowest representative prices recorded for at least 30 % of the quantities marketed on all the representative markets in Portugal for which prices are available, such price or prices being reduced first by:

— the customs duties in force,

— any corrective amount introduced in accordance with Article 4.

Article 4

If the price on entry into Portugal calculated in accordance with Article 3 is less than the Portuguese representative price, a corrective amount equal to the difference between these two prices shall be charged on import into Portugal.

Article 5

For the purposes of implementation of Article 4, the following procedure shall apply:

1. If the price on entry into Portugal remains at least ECU 0,6 below the Portuguese representative price for two consecutive marketing days, a corrective amount shall be introduced, save in exceptional cases. The corrective amount shall be equal to the difference between the Portuguese representative price and the arithmetic mean of the two latest prices on entry into Portugal available.

2. The corrective amount shall be the same amount for all imports from the other Member States and shall be added to the customs duties in force. It shall not be altered so long as a change in the factors in its calculation does not lead, after it is put into effect, to an adjustment in its amount of over ECU 1,2 for three consecutive marketing days.

3. The corrective amount shall be abolished where, from the time of actual application of that amount, prices on entry into Portugal are at least equal to the Portuguese representative price for two consecutive marketing days or if the prices are unavailable for six consecutive working days. It shall also be abolished if the application of paragraph 2 results in a corrective amount of zero.

Article 6

1. Detailed rules 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.

2. A decision to introduce, adjust or abolish the corrective amount shall be taken by Portugal.

3. Portugal shall notify the Commission and the other Member States immediately, before they come into force, of the Portuguese representative prices, the corrective amounts and the information used in their calculation, and in particular the entry prices.

The representative prices and the corrective amounts shall be subjected to control by the Commission before their entry into force.

Article 7

Before 31 December 1992 and thereafter before the end of each year until the end of the second stage of the transition period, the Council shall review this Regulation on the basis of a report by the Commission accompanied, where appropriate, by proposals allowing the Regulation to be adapted to reflect trends in trade.

Article 8

This Regulation shall enter into force on 1 January 1991.

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

Done at Brussels, 11 December 1990.

For the Council

The President

V. SACCOMANDI