# REGULATION (EEC) No 1380/75 OF THE COMMISSION

## of 29 May 1975

## laying down detailed rules for the application of monetary compensatory amounts

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 974/71 (1) of 12 May 1971 on certain measures of conjunctural policy to be taken in agriculture following the temporary widening of the margins of fluctuation for the currencies of certain Member States, as last amended by Regulation (EEC) No 475/75 (2), and in particular Article 6 thereof;

Whereas since their adoption the provisions of Commission Regulation (EEC) No 1463/73 (3) of 30 May 1973 laying down detailed rules for the application of monetary compensatory amounts have been amended a number of times and on the last occasion by Regulation (EEC) No 538/75 (4) of 3 March 1975; whereas, by reason of their number and their dispersal among various issues of the Official Journal, these texts are difficult to use; whereas they should therefore be consolidated in a single text; whereas some amendments should be made to them in the process;

Whereas Article 1 (1) of Regulation (EEC) No 974/71 provides that if, for the purposes of commercial transactions, a Member State allows the exchange rate for its currency to fluctuate by a wider margin, up or down, than that permitted by the international rules in force on 12 May 1971, then in trade with other Member States and with third countries:

(a) the Member State whose currency appreciates above the margin of fluctuation is to charge on imports and grant on exports, and

(b) the Member State whose currency depreciates below the margin of fluctuation is to charge on exports and grant on imports

monetary compensatory amounts for the products specified in paragraph 2 of that Article;

Whereas, pursuant to paragraph 1a of the said Article, where a rate of exchange other than that corresponding to the parity of the currency in question is used for conversions between the unit of account and the currency of a Member State, paragraph 1 aforesaid applies equally when the mean of the spot market rates for that currency during a period to be determined varies by at least 1 % from the conversion rate used for the purposes of calculation;

Whereas it is necessary, for the purpose of applying Articles 1 (1a), 2 (1) (b) and 2a of Regulation (EEC) No 974/71 to determine the period during which are to be recorded the spot market rates whose arithmetical mean is to be used in particular for calculating compensatory amounts; whereas the period must be sufficiently representative to show trends in rates and must yet allow those rates to be reflected as quickly as possible in the fixing of the compensatory amounts; whereas a period of seven days fixed for the purposes of technical administrative requirements should therefore be used;

Whereas the most representative spot market rates should be used for the purpose of calculation;

Whereas the common price level should be used as a basis for the calculation of monetary compensatory amounts, bearing in mind the fact that the new Member States do not yet apply the common price in the case of certain products and that the difference between the two price levels is expressed by the accession compensatory amount;

Whereas accession compensatory amounts, fixed components as referred to in Article 61 of the Act of Accession (5), import charges, export refunds and all other amounts charged or granted in units of account in respect of trade with third countries are, like the prices in the Member States concerned, converted into the currencies of those Member States by applying the exchange rates provided for under the common agricultural policy; whereas, therefore, in calculating the monetary compensatory amount only the difference between the price level and the amount in question expressed in units of account need be taken into consideration; whereas, in order to simplify the system so that the same compensatory amount may be applied in respect of the trade of a given Member State with every other Member State and with third countries, accession compensatory amounts, fixed

(1) OJ No L 106, 12. 5. 1971, p. 1.
(2) OJ No L 52, 28. 2. 1975, p. 28.
(3) OJ No L 146, 4. 6. 1973, p. 1.
(4) OJ No L 57, 3. 3. 1975, p. 1.
(5) OJ No L 73, 27. 3. 1972, p. 14.

components, import charges, export refunds and all other amounts charged or granted in respect of trade with third countries should be corrected by a coefficient expressing the position of the currency of the Member State which is to apply the monetary compensatory amount ;

Whereas the representative rates for the pound sterling and the Irish pound are different, although the real value of the two currencies is the same ; whereas, because of this, the change referred to in Article 3 of Regulation (EEC) No 974/71 may occur in respect of only one of the currencies in question ; whereas, however, altering the compensatory amount only in respect of that currency may, in the circumstances described, lead to distortions of competition ; whereas, therefore, provision should be made for a suitable procedure to avoid this ;

Whereas the Belgo-Luxembourg Economic Union (BLEU) and the Netherlands have decided to maintain the margins of fluctuation between their currencies which obtained before 9 May 1971 and have not altered the relationship between their currencies ; whereas therefore, widening the fluctuation margins will, in the case of those Member States, only affect trade with other Member States and with third countries, trade within the BLEU and between the BLEU and the Netherlands being unaffected ; whereas, for this reason, those Member States have declared under Article 233 of the Treaty that they do not desire to apply monetary compensatory amounts between themselves ; whereas, for the purpose of applying the system of monetary compensatory amounts, those countries should be regarded as a single Member State ;

Whereas certain Member States may still experience difficulties in granting compensatory amounts on imports ; whereas it is therefore necessary to make provision, in case of recourse to the provisions of Article 2a of Regulation (EEC) No 974/71, for common rules for applying or opting not to apply those provisions ;

Whereas, with a view to harmonization, the date selected as the date of import for the purpose of applying monetary compensatory amounts should be the date used for the purpose of customs duties and levies, while the date of export should be the date used for the purpose of export refunds ;

Whereas, before a compensatory amount for a product exported to another Member State is paid, proof must be supplied that the product has left the geographical territory of the Member State in which the customs export formalities were completed ;

Whereas the system provided for by this Regulation can cover only products in free circulation within the Community ; whereas, moreover, products benefiting from a compensatory amount should be of a quality such that they can be marketed under normal conditions ;

Whereas, in the interests of sound administration, it seems desirable to require that application for payment of the compensatory amount be made within a reasonable period ; whereas, in order to prevent distortions of competition between the trade interests concerned in the Member States, a time limit should be laid down for payment of the compensatory amounts ; whereas the fact that in exceptional cases this time limit cannot be respected should be taken into consideration ;

Whereas non-observance of a lower price limit at the time of import of certain agricultural products subject to the application of monetary compensatory amounts entails an increase in the import charge ; whereas this system leads to increased prices for the products concerned whenever a currency appreciates, having regard to the compulsory application of the rates of exchange fixed for the purposes of the common agricultural policy, for the prices in question, as expressed in terms of the currency of a Member State whose currency has appreciated are increased in relation to their value expressed in terms of the currency of third countries ; whereas, in addition, the compensatory amount is levied at the time of import ; whereas, on the other hand, in the event of a depreciation of a currency there is a risk that the lower limit will not be observed ; whereas this difficulty can be overcome by a system which results in the said limit being considered as having been observed if the offer price of the product supplied, increased or reduced by an amount reflecting the effect of the currency situation on the limit in question, is not below that limit ;

Whereas food aid exports fulfil a humanitarian purpose ; whereas they should therefore be exempted from the application of monetary compensatory amounts ;

Whereas under Community rules small consignments of a non-commercial character and products or goods carried in travellers' personal luggage are exempted from customs duties and other charges ; whereas such products or goods must similarly be exempted from monetary compensatory amounts on exportation ;

Whereas the measures provided for in this Regulation are in accordance with the Opinions of all the Management Committees for the common organization of agricultural markets,

HAS ADOPTED THIS REGULATION :

*Article 1*

This Regulation lays down detailed rules, for the application of the compensatory amounts introduced by Article 1 of Regulation (EEC) No 974/71 hereinafter called 'monetary compensatory amounts' ;

TITLE I

## Calculation of the monetary compensatory amounts

*Article 2*

The period referred to in the second subparagraph of Article 1 (1a), the second indent of Article 2 (1) (b) and Article 2a of Regulation (EEC) No 974/71 shall run from a Wednesday to the following Tuesday.

*Article 3*

The spot market rates against each of the currencies of the Member States which keep their exchange rates within a spread at any given moment of 2·25 % shall be :

(a) for the French franc : the average official rate recorded each working day during official dealings on the Paris foreign exchange market ;

(b) for the Italian lira : the mean of the average official rates fixed each working day during official dealings on the Rome and Milan foreign exchange markets ;

(c) for the Irish pound and the pound sterling : the average rates recorded each working day at noon on the foreign exchange markets of the two Member States concerned.

*Article 4*

1. A monetary compensatory amount shall be fixed for each product and for each Member State in respect of which the conditions for the application of monetary compensatory amounts are fulfilled.

The monetary compensatory amount shall be calculated on the basis of the common price, reduced where appropriate in accordance with the provisions of the Act of Accession.

2. The amount fixed in accordance with the preceding paragraph shall apply in trade between the Member States and in trade with third countries.

3. However,

(a) in trade with a new Member State the accession compensatory amounts and the fixed components, and

(b) in trade with third countries the import charges and the export refunds and levies,

fixed in units of account, applicable to the products referred to in paragraph 1 shall be multiplied by a coefficient. This coefficient shall be derived from the percentage used to calculate the monetary compensatory amount and shall be fixed by the Commission at the same time as that amount.

For the purposes of this Regulation, the amount levied pursuant to the last subparagraph of Article 2 (1) of Regulation (EEC) No 986/68 on exports of skimmed milk or skimmed-milk powder in the form of denatured skimmed-milk powder or compound feedingstuffs shall not be treated as an export levy.

4. Where the levy or refund is to be increased or reduced, as the case may be, by accession and monetary compensatory amounts and multiplied by a coefficient, the calculation shall be made as follows :

(a) the levy or refund shall be reduced or increased, as the case may be, by the accession compensatory amount ;

(b) the resulting amount shall be multiplied by the coefficient ; and

(c) the amount obtained after multiplication shall, after conversion into national currency, be reduced or increased, as the case may be, by the monetary compensatory amount.

*Article 5*

Where the condition laid down in Article 3 of Regulation (EEC) No 974/71 is met only in respect of the Irish pound or the pound sterling the monetary compensatory amounts applied in both the Member States concerned shall be altered by the Commission in line with the changes recorded for each of the two currencies.

TITLE II

## Application of the monetary compensatory amounts in trade with third countries

*Article 6*

In trade with third countries the provisions concerning the granting of export refunds and the charging of customs duties and import levies shall apply to monetary compensatory amounts. If the monetary compensatory amount to be levied on export is higher than the refund of if no refund has been fixed, that part of the monetary compensatory amount which exceeds the refund, or the entire monetary compensatory amount, as the case may be, shall fall due on completion of the customs export formalities.

TITLE III

## Application of the monetary compensatory amounts in intra-Community trade

*Article 7*

In trade between Member States, Articles 8 to 15 shall apply.

*Article 8*

1. The monetary compensatory amount to be granted or levied shall be the amount applicable on the day of export or on the day of import.

2. For the purposes of determining the monetary compensatory amount to be granted or levied on export, the day of export shall be the day on which the customs authority accepts the document by which the declarant states his intention to export to another Member State products to which monetary compensatory amounts are applicable. At the time of such acceptance, the products shall be placed under customs control and shall remain so until they leave the territory of the exporting Member State.

3. For the purpose of this Regulation, acceptance of the document referred to in paragraph 2 above shall be considered to mark the completion of customs export formalities.

4. The day on which customs export formalities are completed shall be the operative date for determining the quantity, nature and characteristics of the products exported.

5. For the purpose of determining the monetary compensatory amount to be levied or granted on import, the day of import shall be the date used for determining customs duties and levies.

*Article 9*

1. No monetary compensatory amount shall be granted or levied in trade between Belgium, Luxembourg and the Netherlands.

However, if a Community document proving that a product is eligible for treatment as a Community product is used in such trade, the preceding subparagraph shall apply only if the document includes one of the following entries, authenticated by the stamp of the customs office of departure :

— 'Montant compensatoire monétaire non applicable au Benelux',

— 'Währungsausgleichsbetrag in Benelux nicht anwendbar',

— 'Monetair compenserend bedrag niet van toepassing in de Benelux.'

2. For the purposes of this Regulation, the BLEU and the Netherlands are considered as a single Member State.

*Article 10*

1. The monetary compensatory amount granted on export shall be paid only upon production of proof that the product in respect of which customs export formalities were completed has left the geographical territory of the Member State in which the formalities were completed.

2. The monetary compensatory amount granted on import be paid only on production of proof that customs import formalities have been completed and that the duties and charges having equivalent effect payable in the Member State in question have been charged.

*Article 11*

1. Where an exporting Member State wishes to exercise the option provided for in Article 2a of Regulation (EEC) No 974/71, it shall inform the Commission of its intention after it has obtained the agreement of the importing Member State. The Commission in turn shall inform the other Member States.

2. Payment by the exporting Member State of the monetary compensatory amount which should be granted by the importing Member State shall be conditional upon the production of proof that customs import formalities have been completed and that the duties and charges having equivalent effect payable in the importing Member State have been charged.

This proof shall be furnished by production of the control copy provided for in Article 1 of Regulation (EEC) No 2315/69. In the additional information section, the following shall be completed :

(1) Sections 101 and 103 ;

(2) Section 104 by deleting what does not apply and adding one of the following :

— 'Intended for entry for home use in (importing Member State)'

— 'Destiné à être mis à la consommation en/au(x) (État membre importateur)'

— 'Bestemt til forbrug i (den indførende medlemsstat)'

— 'Zum freien Verkehr in (einführender Mitgliedstaat) bestimmt'

— 'Destinato ad essere immesso in consumo in (Stato membro importatore)'

— 'Bestemd om in het vrije verkeer te worden gebracht in (invoerende Lid-Staat)'.

The competent customs office in the importing Member State shall complete the section headed 'control as to use and/or destination' and add one of the following :

— 'Monetary compensatory amount applicable on (date of entry for home use) not granted in (importing Member State)'
— 'Montant compensatoire monétaire applicable le (date de mise à la consommation) non octroyé en/au(x) (État Membre importateur)'
— 'Monetært udligningsbeløb, gældende den (datoen for overgang til forbrug) ikke ydet i (den importerende medlemsstat)'
— 'Währungsausgleichsbetrag, gültig am (Tag der Überführung in den freien Verkehr) in (einführender Mitgliedstaat) nicht gewährt'
— 'Importo compensativo monetario applicabile il (data d'immissione al consumo) non concesso in (Stato membro importatore)'
— 'Monetair compenserend bedrag van toepassing op (datum van invoer tot verbruik) niet toegekend in (invoerende Lid-Staat)'.

3. Where Article 3 of Regulation (EEC) No 974/71 is applied the Commission shall alter the exchange rate to be used for the purpose of applying Article 2a of that Regulation.

4. If, after having had recourse to the provisions of Article 2a of Regulation (EEC) No 974/71, an exporting or importing Member State wishes to abandon its exercise of the option provided for therein it shall first inform the other Member State concerned and the Commission, which shall inform the other Member States.

In such a case, products in respect of which customs export formalities have been completed before the date on which such abandonment takes effect shall remain subject to the provisions of the said Article.

*Article 12*

1. A monetary compensatory amount shall be levied or granted only in respect of products which come within the terms of Article 9 (2) of the Treaty, irrespective of the legal position with regard to their packaging.

Where compound products subject to a monetary compensatory amount fixed on the basis of one or more of their components are exported or imported, that monetary compensatory amount shall be applied only in so far as the component or components in respect of which the monetary compensatory amount is applicable come within the terms of Article 9 (2) of the Treaty. This provision shall also apply where the component or components in respect of which the monetary compensatory amount is applicable came originally within the terms of the said Article 9 (2) and no longer do so by reason solely of their incorporation in other products.

If a product is exported from one Member State to another Member State and subsequently re-exported to a third country or to another Member State, the monetary compensatory amount shall not be applied on exit from the re-exporting Member State unless it was applied on entry into that Member State, or if the option provided for in Article 2a of Regulation (EEC) No 974/71 was exercised on behalf of that State.

2. No monetary compensatory amount shall be granted on products which are not of sound and fair marketable quality or for products intended for human consumption if their characteristics or condition exclude or substantially impair their use for that purpose.

*Article 13*

Where a monetary compensatory amount is levied on export, it shall fall due on completion of the customs export formalities.

*Article 14*

Payment of monetary compensatory amounts shall be made only on receipt of a written application from the person concerned. Member States may prescribe a special form for this purpose.

*Article 15*

Except in cases of *force majeure*, no claim for payment of a monetary compensatory amount shall be entertained unless the relevant documents are submitted within the six months following the day on which customs formalities were completed.

TITLE IV

**General provisions**

*Article 16*

Where the competent authorities are to grant a monetary compensatory amount, payment shall be made within two months from the day of deposit of sufficient supporting documents except in cases :

— of *force majeure* ; or
— where administrative enquiries have been commenced owing to doubts concerning the accuracy of the evidence produced.

*Article 17*

1. The sluice-gate prices for pigmeat, eggs, poultrymeat and albumins shall be considered to have been observed at the time of import from third countries if, for the product in question, the offer price

(a) in the case of appreciation of the currency of the importing Member State, increased
(b) in the case of depreciation of that currency, reduced

by the amount referred to in the following subparagraph is not less than the sluice-gate price.

The amount referred to in the preceding subparagraph shall be obtained for pigmeat by multiplying the sluice-gate price by a coefficient corresponding to the percentage appreciation or depreciation of the currency of the importing Member State. In the case of eggs, poultrymeat and albumins this amount shall be the monetary compensatory amount applicable in trade within the Community.

2. For milk and milk products : the free-at-frontier values of products falling within subheadings 04.04 E I b) 2, 04.04 E I b) 3 and 04.04 E I b) 4 shall be considered to have been observed at the time of import from third countries if, for the product in question, the offer price

(a) in the case of appreciation of the currency of the importing Member State, increased

(b) in the case of depreciation of that currency, reduced

by the amount referred to in the following subparagraph is not less than the free-at-frontier value in question.

The amount referred to in the preceding subparagraph shall be obtained by multiplying the free-at-frontier value in question by a coefficient corresponding to the percentage appreciation or depreciation of the currency of the importing Member State.

3. For wine the reference prices shall be considered to have been observed at the time of import from third countries if, for the product in question, the offer price increased by the customs duties and

(a) in the case of appreciation of the currency of the importing Member State, increased

(b) in the case of depreciation of that currency, reduced

by the amount referred to in the following subparagraph is not less than the reference price.

The amount referred to in the preceding subparagraph shall be the monetary compensatory amount applicable in trade within the Community.

*Article 18*

1. No monetary compensatory amount shall be applicable in respect of the following transactions concerning products supplied for purposes of Community or national food-aid programmes :

— in the case of products from intervention stocks, intra-Community trading operations and exports to third countries,

— in the case of products mobilized on the Community market, exports to third countries.

2. No monetary compensatory amount shall be applied in respect of exports to third countries for purposes of food-aid programmes carried out by humanitarian organizations provided that such programmes have been approved under the procedure laid down in Article 6 of Regulation (EEC) No 974/71.

3. Where pursuant to the foregoing paragraphs no monetary compensatory amount is applied the provisions of Article 4 (3) shall not be applicable.

*Article 19*

1. In respect of exports to third countries or to another Member State, no monetary compensatory amount shall be applied to :

(a) small consignments of a non-commercial character.

The limits and the conditions of application of this exemption shall be the same as those laid down in Article 1 (2) of Council Directive No 74/651/EEC (1) of 19 December 1974 ; however, in the event of export to third countries, the total value of the consignment may not exceed 25 units of account ;

(b) products carried in travellers' personal luggage.

The limits and the conditions of application of this exemption shall be the same as those set out in Council Directive No 69/169/EEC (2) of 28 May 1969, as amended by Directive No 72/230/EEC (3) of 12 June 1972.

However for exports to third countries of products which are subject to export levies or other export charges imposed under the common agricultural policy or the special arrangements applicable pursuant to Article 235 of the Treaty to certain goods processed from agricultural products, the quantities in respect of which no monetary compensatory amount is applicable shall not exceed 3 kg per consignment or traveller.

2. For the purpose of paragraph 1 the total value of the consignments in question shall be ascertained by taking into account only the products which are subject to monetary compensatory amounts.

3. No monetary compensatory amount shall be granted on imports from third countries or other Member States of products mentioned in paragraph 1.

(1) OJ No L 354, 30. 12. 1974, p. 57.
(2) OJ No L 133, 4. 6. 1969, p. 6.
(3) OJ No 139, 17. 6. 1972, p. 28.

*Article 20*

Regulation (EEC) No 1463/73 is hereby repealed.

*Article 21*

This Regulation shall enter into force on 1 June 1975, with the exception of Article 19 which shall enter into force on 1 July 1975.

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

Done at Brussels, 29 May 1975.

*For the Commission*

P. J. LARDINOIS

*Member of the Commission*