COMMISSION REGULATION (EEC) No 1509/78

of 30 June 1978

amending Regulations (EEC) No 937/77 and (EEC) No 1054/78 laying down detailed rules for the application of Regulation (EEC) No 878/77 on the exchange rates to be applied in agriculture

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 878/77 of 26 April 1977 on the exchange rate to be applied in agriculture (1), as last amended by Regulation (EEC) No 976/78 (2), and in particular Article 5 thereof,

Whereas the said Regulation brought into operation the provisions of Council Regulation (EEC) No 1134/68 of 30 July 1968 laying down rules for the implementation of Regulation (EEC) No 653/68 on conditions for alterations to the value of the unit of account used for the common agricultural policy (3); whereas Article 4 of that Regulation provides that any person who has obtained advance fixing for a specific transaction may on application obtain cancellation of the advance fixing and of the relevant document or certificate; whereas, however, Article 4 (2) of Regulation (EEC) No 878/77 provides that the second subparagraph of Article 4 (1) of Regulation (EEC) No 1134/68 applies only if the application of the new representative rates is disadvantageous;

Whereas the circumstances constituting disadvantageous application of the new representative rates were defined in Article 1 of Commission Regulation (EEC) No 937/77 of 29 April 1977 laying down detailed rules for the application of Council Regulation (EEC) No 878/77 on the exchange rates to be applied in agriculture (4), as last amended by Regulation (EEC) No 475/78 (5), and in Article 1 of Commission Regulation (EEC) No 1054/78 of 19 May 1978 laying down detailed rules for the application of Regulation (EEC) No 878/77 on the exchange rates to be applied in agriculture and replacing Regulation (EEC) No 937/77 (6);

Whereas it should be more clearly stated that cancellation of the advance fixing and of the relevant document or certificate may be requested only if

- in the case in question there would be a material disadvantage as a result of the alteration in the representative rate of the currency concerned, and
- in the case of simultaneous alteration of the representative rate and of the price level in units of account, the disadvantage resulting from the alteration in the representative rate outweighs any advantage afforded by the alteration in the price level;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

Paragraphs 1 and 2 of Article 1 of Regulation (EEC) No 937/77 and Article 1 of Regulation (EEC) No 1054/78 are hereby amended to read as follows:

'1. For the purposes of Article 4 of Regulation (EEC) No 878/77, there shall be a disadvantage where, following the application of the new representative rate, the alteration in terms of national currency in the sum total, or where appropriate the balance, of the amounts applicable to a particular transaction results in:

— the levying of a greater amount, or

— the granting of a lesser amount

than that applicable before entry into force of the said rate.

The disadvantage shall be determined by comparing the situation of the interested party before and after the new rates and prices have taken effect. No account shall be taken in making the comparison of any alteration in the spot market rates for the currency concerned.

On application by Member States the Commission shall supply the information necessary for calculating the disadvantage.

(1) OJ No L 106, 29. 4. 1977, p. 27.
(2) OJ No L 125, 13. 5. 1978, p. 32.
(3) OJ No L 188, 1. 8. 1968, p. 32.
(4) OJ No L 110, 30. 4. 1977, p. 1.
(5) OJ No L 65, 8. 3. 1978, p. 10.
(6) OJ No L 134, 22. 5. 1978, p. 40.

2. Cancellation of an advance fixing and of the relevant document or certificate, provided for in the last subparagraph of Article 4 (1) of Regulation (EEC) No 1134/68, may be requested only if

   (a) the representative rate of the currency concerned has been altered, and

   (b) if, in the case of simultaneous alteration of the representative rate and of the price level in units of account, the disadvantage resulting from the alteration in the representative rate outweighs any advantage afforded by the effect of the alteration in the price level on the amount to be granted or levied on the goods.

3. For certificates not including an advance fixing of a monetary compensatory amount, calculation of any disadvantage shall be made for the currency of the Member State in which the document or certificate has been issued.

   However, for certificates including an advance fixing of a monetary compensatory amount, the calculation shall be made for the currency of the Member State in which the certificate is valid.'

Article 2

Paragraphs 3 and 4 of Article 1 of Regulation (EEC) No 937/77 shall become paragraphs 4 and 5 of the said Article.

Article 3

This Regulation shall enter into force on 1 July 1978.

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

Done at Brussels, 30 June 1978.

For the Commission

Finn GUNDELACH

Vice-President