COMMISSION REGULATION (EEC) No 1947/78

of 11 August 1978

amending Regulation (EEC) No 1380/75 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 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 (1), as last amended by Regulation (EEC) No 557/76 (2), and in particular Article 6 thereof,

Whereas Article 6 (1) of Commission Regulation (EEC) No 1380/75 of 29 May 1975 laying down detailed rules for the application of monetary compensatory amounts (3), as last amended by Regulation (EEC) No 1392/78 (4), is applicable in trade with third countries;

Whereas Council Directive 69/73/EEC of 4 March 1969 on the harmonization of provisions laid down by law, regulation or administrative action in respect of inward processing (5), as last amended by Directive 76/119/EEC (6), applies also to agricultural products; whereas processing in a free zone or a customs warehouse must take place in accordance with the rules applying to inward processing; whereas products obtained under inward processing may contain products from the internal market; whereas experience has shown that the provisions governing the application of monetary compensatory amounts on such products should be clarified;

Whereas the monetary compensatory amount applicable to the products covered by Council Regulation (EEC) No 1059/69 of 28 May 1969 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products (7), as last amended by Regulation (EEC) No 2670/76 (8), is calculated on the quantities indicated in the Annex to Council Regulation (EEC) No 1060/69 of 28 May 1969 fixing the quantities of basic products considered to have been used in the manufacture of the goods covered by Regulation (EEC) No 1059/69 (9), as last amended by Regulation (EEC) No 2500/77 (10), unless otherwise provided in the Regulation fixing the monetary compensatory amounts; whereas this must be taken into consideration when applying monetary compensatory amounts for such products obtained under inward processing arrangements;

Whereas the basic products considered to have been used in the manufacture of the goods covered by Regulation (EEC) No 1059/69 are cereals, certain milk products and sugar; whereas the basic products actually used may be products and goods obtained from the processing of the abovementioned products; whereas:

— Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products (11), as last amended by Regulation (EEC) No 1761/78 (12),

— Council Regulation (EEC) No 3330/74 of 19 December 1974 on the common organization of the market in sugar (13), as last amended by Regulation (EEC) No 705/78 (14),

— Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals (15), as last amended by Regulation (EEC) No 1254/78 (16),

cover both the basic products considered to have been used in the processing and the relevant products derived from the processing of such products; whereas goods resulting from the processing of these two groups of products must also be taken into consideration in the calculation of monetary compensatory

(1) OJ No L 106, 12. 5. 1971, p. 1.
(2) OJ No L 67, 15. 3. 1976, p. 1.
(3) OJ No L 139, 30. 5. 1975, p. 37.
(4) OJ No L 167, 24. 6. 1978, p. 53.
(5) OJ No L 58, 8. 3. 1969, p. 1.
(6) OJ No L 24, 30. 1. 1976, p. 58.
(7) OJ No L 141, 12. 6. 1969, p. 1.
(8) OJ No L 302, 4. 11. 1976, p. 1.
(9) OJ No L 141, 12. 6. 1969, p. 7.
(10) OJ No L 289, 14. 11. 1977, p. 1.
(11) OJ No L 148, 28. 6. 1968, p. 13.
(12) OJ No L 204, 28. 7. 1978, p. 6.
(13) OJ No L 359, 31. 12. 1974, p. 1.
(14) OJ No L 94, 8. 4. 1978, p. 1.
(15) OJ No L 281, 1. 11. 1975, p. 1.
(16) OJ No L 156, 14. 6. 1978, p. 1.

amounts when such goods are subject to the system of monetary compensatory amounts; whereas basic products should therefore be defined as the products covered by Regulations (EEC) No 804/68, (EEC) No 3330/74, (EEC) No 2727/75 and the goods covered by Regulation (EEC) No 1059/69;

Whereas monetary compensatory amounts on goods covered by Regulation (EEC) No 1059/69 may be fixed in advance for the goods in question but not for the basic products used in the manufacture of such goods; whereas the monetary compensatory amount applicable to goods obtained under inward processing is calculated by reference only to certain of the items used in fixing the monetary compensatory amount applicable to the goods themselves; whereas the certificate for the advance fixing of the refund referred to in Article 6 of Council Regulation (EEC) No 2682/72 of 12 December 1972 laying down general rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and the criteria for fixing the amount of such refunds [1], as last amended by Regulation (EEC) No 707/78 [2], is not accepted when it also provides for advance fixing of the monetary compensatory amount;

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

HAS ADOPTED THIS REGULATION:

Article 1

In Regulation (EEC) No 1380/75 an Article 6a as follows is inserted:

'Article 6a

1. In respect of products to be exported after having been obtained under inward processing, hereinafter referred to as obtained products, the monetary compensatory amounts shall be applied in accordance with the provisions of this Article.

2. This Article shall apply to obtained products which are subject to the system of monetary compensatory amounts and:

(a) in the case of products covered by a common market organization, contain agricultural products:

— which before being used in the processing came within the terms of Article 9 (2) of the Treaty, and

— would be subject to monetary compensatory amounts if exported unprocessed at the time of completion of the customs export formalities for the obtained products; or

(b) in the case of products covered by Regulation (EEC) No 1059/69, contain basic products or goods obtained by processing basic products where, before being used in the processing, such basic products or goods complied with the conditions set out in the first and second indent of (a) above.

3. Where an obtained product:

— belongs to a category of products covered by a common market organization, or

— is covered by Regulation (EEC) No 1059/69, and the monetary compensatory amount is calculated by reference to the quantities of basic products actually contained therein but is not fixed for the obtained product itself,

the amount to be applied shall be the total amount applicable to the products used in the processing which came within the terms of Article 9 (2) of the Treaty.

4. In the case of an obtained product covered by Regulation (EEC) No 1059/69, but not coming within paragraph 3, the amount to be applied shall be that fixed for the obtained product, less the amount which would have been applied to the basic products actually used in the processing, but not coming within the terms of Article 9 (2) of the Treaty before being used in the processing, if these products had been put into free circulation at the time of export of the obtained product.

However, the amount to be deducted shall not exceed the amount calculated on the basis of the notional quantities indicated in the Annex to Regulation (EEC) No 1060/69. For purposes of comparison of these amounts the quantities of basic products actually used and the notional quantities indicated in the Annex to Regulation (EEC) No 1060/69 shall be grouped together within the following categories:

— cereals and processed cereals,

— milk and milk products, other than lactose,

— lactose, sugar and sugar syrups.

[1] OJ No L 289, 27. 12. 1972, p. 13.
[2] OJ No L 94, 8. 4. 1978, p. 7.

Within each of these categories the amount calculated on the basis of the quantities actually used and the amount calculated from the notional quantity indicated in the Annex to Regulation (EEC) No 1060/69 shall be compared.

5. For purposes of the second indent of paragraph 3 and of paragraph 4, the term "basic products" means the products covered by:

— Regulation (EEC) No 804/68 (milk and milk products),
— Regulation (EEC) No 3330/74 (sugar),
— Regulation (EEC) No 2727/75 (cereals).

Goods covered by Regulation (EEC) No 1059/69 shall, if used in processing, also be considered as basic products.

6. On completion of customs export formalities in respect of obtained products covered by Regulation (EEC) No 1059/69, certificates as referred to in Article 6 of Regulation (EEC) No 2682/72 for the advance fixing of the refund on basic products shall not be accepted where they include advance fixing of the monetary compensatory amount.'

Article 2

This Regulation shall enter into force on 1 October 1978. It shall, at the request of the party concerned, apply with effect from 1 January 1978.

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

Done at Brussels, 11 August 1978.

For the Commission

Finn GUNDELACH

Vice-President