COMMISSION REGULATION (EEC) No 2378/78

of 12 October 1978

amending Regulation (EEC) No 1036/78 fixing the monetary compensatory amounts and certain coefficients and rates for their application

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 fluctuations of the currencies of certain Member States (1), as last amended by Regulation (EEC) No 557/76 (2), and in particular Article 6 thereof,

Whereas in accordance with Part 5 of Annex I to Commission Regulation (EEC) No 1036/78 of 19 May 1978 fixing the monetary compensatory amounts and certain coefficients and rates for their application (3), as last amended by Regulation (EEC) No 2370/78 (4), no amount is applied either for whey or for the proportion of whey contained in milk and cream; whereas it is therefore provided in footnote (9) that when completing the customs formalities the interested party must indicate the actual whey content of the product by weight; whereas, however, certain products falling within heading No 04.01 of the Common Customs Tariff cannot normally contain whey by their very nature or their uses; whereas, in these cases, in order to simplify the checks on trade the compensatory amounts should not be granted where whey has been added; whereas it should be specified in footnote (9) that the weight of milk and milk cream other than whey should be based on the non-fat part of the product and should relate only to whey added to the product in question;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

Part 5 of Annex I to Regulation (EEC) No 1036/78 is amended as follows:

(a) The reference footnote '(9)' in column 3 is replaced by the reference '(10)' for the products of the following subheadings of the Common Customs Tariff:

04.01 A I
04.01 A II
04.01 B I
04.01 B II
04.01 B III;

(b) In column 1 '04.01 A I' is replaced by 'ex 04.01 A I' and in column 2 the words 'with the exception of whey' are added in respect of that subheading.

(c) The text of footnote (9) is amended to read as follows:

'(9) The basic amount for 100 kg of product falling within this subheading is the amount indicated multiplied by 1/100 of the weight of milk, other than whey added, contained in the non-fat part of the product. (When the fat content is less than 1·5 % this percentage shall be considered nil).

When completing the customs formalities the party concerned must indicate in the special declaration for this purpose:

— the whey content added per 100 kg of finished product, and in particular:

— the lactose content of the whey added.'

(d) The following footnote (10) is added:

'(10) No compensatory amount shall be granted for products to which whey has been added. However, the indicated amounts apply where compensatory amounts have to be levied.

When completing the customs formalities:

— for exports, in a Member State with an appreciated currency,

— for imports, in a Member State with a depreciated currency,

(1) OJ No L 106, 12. 5. 1971, p. 1.
(2) OJ No L 67, 15. 3. 1976, p. 1.
(3) OJ No L 133, 22. 5. 1978, p. 1.
(4) OJ No L 286, 12. 10. 1978, p. 20.

— for exports, in a Member State using the option provided for in Article 2a of Regulation (EEC) No 974/71,

the party concerned must indicate in the special declaration for this purpose whether or not whey has been added to the product.'

Article 2

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

It shall apply with effect from 16 October 1978.

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

Done at Brussels, 12 October 1978.

For the Commission

Finn GUNDELACH

Vice-President