COMMISSION REGULATION (EEC) No 1372/81

of 19 May 1981

laying down detailed rules for the calculation 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 876/81 (2), and in particular Article 6 thereof,

Whereas the provisions of Commission Regulation (EEC) No 1380/75 of 29 May 1975 laying down detailed rules for the application of monetary compensatory amounts (3) have been amended a number of times and on the last occasion by Regulation (EEC) No 3476/80 (4); whereas, by reason of their number and their dispersal among various issues of the *Official Journal of the European Communities*, 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 and the provisions relating to the calculation of monetary compensatory amounts separated from the administrative provisions;

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 non-member countries:

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

(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, also applies 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, for the purpose of applying Articles 1 (1a), 2 (1) (b) and 2a of Regulation (EEC) No 974/71, the period must be determined during which are to be recorded the spot market rates whose arithmetical mean is to be used in particular for calculating the monetary compensatory amounts; whereas the period must be sufficiently representative to show trends in rates and yet must 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 and the date of entry into operation of new rates should be specified;

Whereas the rates for the ECU calculated and published daily by the Commission should be used for the purpose of calculation; whereas these rates for the ECU are based on data communicated by the central banks of the Member States which refer to exchange rates recorded at the same time in each Member State; whereas the rate of exchange between the currencies of two Member States may accordingly be obtained from the relationship between the value of the ECU in these currencies; whereas, if an exchange market is closed, the central banks jointly set a rate which is representative for the value of the currency concerned; whereas it is appropriate to use this rate also as a basis for the calculation of monetary compensatory amounts if such a situation arises;

Whereas the common price level should be used as a basis for the calculation of monetary compensatory amounts, with due allowance for the fact that new

(1) OJ No L 106, 12. 5. 1971, p. 1.
(2) OJ No L 88, 2. 4. 1981, p. 28.
(3) OJ No L 139, 30. 5. 1975, p. 37.
(4) OJ No L 363, 31. 12. 1980, p. 71.

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 66 of the Act of Accession of Greece, imports charges, export refunds and all other amounts charged or granted in ECUs in respect of trade with non-member 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 ECUs 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 non-member countries, accession compensatory amounts, fixed components, import charges, export refunds and all other amounts charged or granted in respect of trade with non-member countries should be corrected by a monetary coefficient expressing the position of the currency of the Member State which is to apply the monetary compensatory amount;

Whereas products sent from one Member State to another and then re-exported to a non-member country without having been imported in the re-exporting Member State have a neutral status as regards monetary compensatory amounts; whereas, in such cases, the monetary coefficient should be applied to export refunds and export levies;

Whereas a similar situation characterizes:

— products exported in accordance with the provisions of Council Directive 76/119/EEC of 18 December 1975 on the harmonization of provisions laid down by law, regulation or administrative action in respect of outward processing (1),

— products obtained under the arrangements provided for in 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 (2), as last amended by the Act of Accession of Greece, and subsequently released for free circulation in a Member State other than that in which the products were obtained;

Whereas the coefficient mentioned should therefore apply:

— on the import charge fixed in ECU which is to be deducted in accordance with Article 10 of Directive 76/119/EEC,

— on the import charge fixed in ECU which is established in accordance with Article 4 of Council Directive 73/95/EEC of 26 March 1973 on methods of application of inward processing (3), as amended by Directive 75/681/EEC (4);

Whereas the coefficient should likewise be applied to products declared at the same time both for release at import and for re-export and to which no monetary compensatory amount is applied;

Whereas, in order that the system of monetary compensatory amounts can be satisfactorily applied from the economic point of view, the monetary coefficient must also be applied in the case where, under an invitation to tender concerning trade with non-member countries, the amounts indicated in the statement of award in respect of a given successful tenderer are fixed in national currency;

Whereas Article 2 (4) of Regulation (EEC) No 974/71 provides for a specific method of calculation for the application of monetary compensatory amounts in the wine sector for Member States with a depreciated currency; whereas, following application of this rule, monetary compensatory amounts on wine no longer apply in the Member State where they are lowest, while for the other Member States the amounts correspond to the difference between the monetary margin of the currency of the Member State concerned and the monetary margin which would be applicable in the first Member State were the new rule not to be applied;

Whereas the monetary coefficient by which the levies and refunds applicable in trade with non-member countries are multiplied is included in the monetary compensatory amount; whereas this coefficient is derived from the percentage used to calculate the monetary compensatory amount and fixed by the Commission at the same time as that amount; whereas it should be made clear that the percentage to be employed is that corresponding to the monetary compensatory amount actually applied;

Whereas, for the purpose of calculating the monetary compensatory amounts applicable to products covered by Council Regulation (EEC) No 3033/80 of 11 November 1980 laying down the trade arrangements applicable to certain goods resulting from the

(1) OJ No L 24, 30. 1. 1976, p. 58.
(2) OJ No L 58, 8. 3. 1969, p. 1.
(3) OJ No L 120, 7. 5. 1973, p. 17.
(4) OJ No L 301, 20. 11. 1975, p. 1.

processing of agricultural products (1), account should be taken of the fact that the price of such goods is determined not only by the value of the basic agricultural products, but also by the processing costs; whereas, in these circumstances, certain fixed limits are called for for the purpose of simplifying administrative procedures; whereas it appears appropriate, therefore, not to apply monetary compensatory amounts where the effect of the highest monetary compensatory amount on the value of the goods concerned is less than 2·5 %; whereas, however, changes in the figures serving as a basis for calculation should be monitored and the monetary compensatory amount reintroduced where the abovementioned effect exceeds 3 % for a significant period; whereas, moreover, it is not necessary to apply the monetary compensatory amount where the value is less than 1 ECU per 100 kilograms of goods;

Whereas it is necessary to define the rules applicable where rates differentiated according to the products exist and the difference of one point, triggering an alteration in the compensatory amounts, is reached for only one of these rates; whereas, in order to avoid too frequent alterations in the monetary compensatory amounts and in order to maintain in the Member State concerned the relation between the prices for the various products resulting from the application of different rates, it is necessary to follow the principle of simultaneous alterations for all the monetary compensatory amounts of the Member State concerned; whereas it is appropriate to adjust the monetary compensatory amounts according to the above rule only if the difference of one point is reached for the monetary compensatory amount of the sector in which the representative rate most closely reflects the economic reality of the currency concerned;

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; whereas 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 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 calculation of the compensatory amounts, hereinafter called 'monetary compensatory amounts', introduced by Article 1 of Regulation (EEC) No 974/71.

Article 2

1. 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 Wednesday to the following Tuesday.

2. Where alterations in monetary compensatory amounts result from the assessment of the relevant data for the reference period referred to in paragraph 1, they shall in principle apply from the Monday following the reference period in question.

Article 3

The spot rates of exchange of the currencies of the other Member States in relation to each of the currencies of the Member States which are maintained within a maximum deviation at any given moment for spot rate transactions of 2·25 % of each other shall be derived from the rates for the ECU calculated daily by the Commission in terms of the currencies concerned and published in the 'C' series of the *Official Journal of the European Communities.*

Article 4

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

2. The monetary compensatory amount shall be calculated on the basis of the common price, reduced where appropriate in accordance with the provisions adopted for the accession of new Member States.

(1) OJ No L 323, 29. 11. 1980, p. 1.

3. By way of derogation from paragraph 2, as regards the sugar sector, the monetary compensatory amount shall be calculated on the basis of the intervention price increased by the amount of the levy charged on sugar of Community origin under the system of compensation of storage costs.

4. By way of derogation from paragraph 2, as regards goods covered by Regulation (EEC) No 3033/80, the monetary compensatory amounts shall not apply where the effect of the highest monetary compensatory amount on the value of the goods concerned is less than 2·5 %.

This effect shall be calculated according to groupings of goods listed in the Common Customs Tariff. However, the bases of calculation shall be re-examined twice a year so that changes in the figures may be monitored. Where the effect exceeds 3 % for a significant period, the monetary compensatory amount shall be reintroduced for the goods in question.

Such examinations shall take place:

— in March, any reintroduction or removal taking effect in May,

— in September, any reintroduction or removal taking effect in November.

However, in exceptional cases, an examination of the situation and a reintroduction of monetary compensatory amounts shall take place between the above times.

Moreover, where the monetary compensatory amount does not amount to the equivalent value of 1 ECU per 100 kilograms of goods, it shall not be applied.

Article 5

1. The amount fixed in accordance with Article 4 shall apply in trade between the Member States and in trade with non-member countries.

2. However,

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

(b) in trade with non-member countries, the import charges or parts thereof and subventions and the export refunds and levies,

fixed in ECU, applicable to the products to which a monetary compensatory amount is applied, shall be multiplied by a coefficient hereinafter called the 'monetary coefficient'.

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

3. Where the levy or refund must be increased or reduced, as the case may be, by accession and monetary compensatory amounts and, at the same time, multiplied by the monetary 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 monetary coefficient, in respect of the part expressed in ECU;

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

4. The monetary 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.

However, in the case covered by Article 2 (4) of Regulation (EEC) No 974/71 the coefficient shall be fixed by the Commission by reference to the difference between the amounts in question for the Member State concerned.

Article 6

1. The monetary coefficient shall also be applied to:

(a) export refunds and export levies and charges fixed in ECU:

— when the products to be exported have come from another Member State but have not been imported in the Member State where they have been cleared through customs for export to a non-member country,

— when Article 20 of Regulation (EEC) No 1371/81 applies;

(b) import levies and other import charges fixed in ECU:

— for which relief has been given in accordance with the provisions of Directive 69/73/EEC but which are subsequently to be collected,

— which, in accordance with Article 10 of Directive 76/119/EEC, must be deducted from the import charges on the reimported products,

— when Article 20 of Regulation (EEC) No 1371/81 applies;

(c) refunds and levies, the amounts of which have been set in national currency in the statement of award following an invitation to tender.

2. The monetary coefficient referred to in paragraph 1 shall be that of the Member State in which the amounts to be levied or granted are determined.

3. The terms import and export shall have the same meaning as that given in Article 1 (2) (b) and (c) of Regulation (EEC) No 1371/81.

Article 7

During the period of application of representative rates differentiated according to products for a Member State, no alteration in the monetary compensatory amounts pursuant to Article 3 of Regulation (EEC) No 974/71 shall take place unless the difference of one point is reached for the monetary compensatory amounts applicable to products in respect of which the representative rate applicable is closest to the real rate of the currency of the Member State concerned. If such is the case, the monetary compensatory amounts shall be altered in respect of all products according to the differences ascertained for the rates applicable to each one of them.

Article 8

At the time of import from non-member countries of products from:

(a) the pigmeat sector: the sluice-gate prices shall be considered to have been observed whenever, for the product in question, the offer price:

(i) in the case of application of positive monetary compensatory amounts by the importing Member State, plus,

(ii) in the case of application of negative monetary compensatory amounts by the importing Member State, minus,

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 by multiplying the sluice-gate price by a coefficient corresponding to the percentage appreciation or depreciation of the currency of the importing Member State.

(b) the sectors:

— eggs, poultrymeat and albumin: the sluice-gate prices,

— wine: the reference free-at-frontier prices,

shall be considered to have been observed whenever, for the product in question, the offer price:

(i) plus the positive monetary compensatory amount,

(ii) minus the negative monetary compensatory amount,

is not less than the sluice-gate price or the reference free-at-frontier price.

Article 9

1. Articles 1 to 5 and 17 of Regulation (EEC) No 1380/75 are hereby repealed.

2. In all Community Acts which refer to the Articles mentioned in paragraph 1, such references shall be construed as references to the corresponding Articles of this Regulation.

A table of equivalence is annexed hereto.

Article 10

This Regulation shall enter into force on 1 July 1981.

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

Done at Brussels, 19 May 1981.

For the Commission

Paul DALSAGER

Member of the Commission

ANNEX

Table of equivalence

Regulation (EEC) No 1380/75	*This Regulation*
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
Article 4 (1)	Article 4
Article 4 (2)	Article 5 (1)
Article 4 (3)	Article 5 (2) and (4)
Article 4 (4)	Article 5 (3)
Article 4 (5)	Article 6 (c)
Article 5	Article 7
Article 17	Article 8