COMMISSION REGULATION (EEC) No 2899/81

of 7 October 1981

amending Regulation (EEC) No 926/80 on exemption from the application of monetary compensatory amounts in certain cases

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 1523/80 (2), and in particular Article 6 thereof,

Whereas Commission Regulation (EEC) No 926/80 of 15 April 1980 on exemption from the application of monetary compensatory amounts in certain cases (3), laid down the conditions in which the Member States shall, on a discretionary basis, exempt imports and exports from payment of all or part of new monetary compensatory amounts ; whereas, by virtue of the first and second subparagraphs of Article 8 (3) of the said Regulation, where movements on the exchange markets yield an advantage, following a forward currency operation, the advantage is to be deducted from the additional expense ; whereas, for the purposes of calculating the advantage, the conversion rates for the currencies concerned in the contract are to be compared ; whereas, in these circumstances, it seems necessary to clarify this position by identifying the conversion rates concerned for determining the advantage, where a forward currency operation, concluded on the same day as the contract for goods, is taken into consideration ; whereas, in that situation, one may reasonably consider that the forward currency rate is reflected in the price of the goods and, accordingly, is the rate employed for concluding the contract, which implies that there is no difference between the conversion rates to be compared and that there is no exchange advantage to be taken into consideration when determining the additional expense ;

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

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 926/80 is hereby amended as follows :

Article 8 (3) is replaced by the following :

'3. Where movements on the exchange markets yield an advantage to the operator, in particular where he buys or sells currency at forward rates, the advantage shall be deducted from the additional expense. For the purpose of calculating the advantage, the spot rates for the currencies specified in the contract valid :

(a) on the day of conclusion of the contract, and

(b) on the day of import or export, as the case may be, shall be compared.

In the case of a currency operation at forward rates, the spot rate applicable on the day of import or export shall be replaced by that determined by the said operation.

However, in the case of an operation at forward rates concluded on the same day as the contract for goods, no exchange advantage may be taken into account in determining the additional expense.

Article 2

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

(1) OJ No L 106, 12. 5. 1971, p. 1.
(2) OJ No L 294, 4. 11. 1980, p. 6.
(3) OJ No L 99, 17. 4. 1980, p. 15.

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

Done at Brussels, 7 October 1981.

For the Commission

Poul DALSAGER

Member of the Commission