COMMISSION REGULATION (EEC) No 3153/85

of 11 November 1985

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 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture (1), and in particular Article 12 thereof;

Whereas the detailed rules for the calculation of monetary compensatory amounts are set out in Commission Regulation (EEC) No 1372/81 (2), as last amended by Regulation (EEC) No 766/83 (3); whereas on 11 June 1985 the Council approved a coherent set of agrimonetary rules; whereas the detailed rules for the calculation of monetary compensatory amounts should be adopted accordingly, and some changes made in the light of experience;

Whereas Article 1 (1) of Regulation (EEC) No 1677/85 stipulates that if, for the currency of a Member State, there is a difference between the agricultural conversion rate and the central rate, or, where applicable, the market rate, for the products referred to in Article 4 of the said Regulation, then in intra-Community trade and trade with non-member countries, monetary compensatory amounts shall be:

(a) charged on imports and granted to exports by a Member State whose currency's ECU value is higher than the value expressed by the agricultural conversion rate,

(b) charged on exports and granted to imports by a Member State whose currency's ECU value is lower than the value expressed by the agricultural conversion rate;

Whereas for the purposes of applying Articles 5 (2) (b) and 10 of Regulation (EEC) No 1677/85, the period for recording the spot exchange rates used for finding the arithmetic mean for the purpose of calculating the monetary compensatory amounts must be determined; 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 compensatory amounts fixed; whereas, therefore, in principle, a period of seven days should be fixed for the purposes of technical administrative requirements and the date of entry into effect of new rates should be specified;

Whereas the rates for the ECU worked out and published daily by the Commission should be used in the calculation of the monetary compensatory amounts; whereas these ECU rates are based on data sent in 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 can therefore be ascertained from the relationship between the ECU values of the two currencies; whereas, where an exchange market is closed, the central banks jointly agree a rate which is representative for the value of the relevant currency; whereas, when this situation arises this rate should also be used for the calculation of monetary compensatory amounts;

Whereas the common price level should be used as the basis for calculating monetary compensatory amounts, with due allowance for the fact that new Member States joining the Community may not yet be applying the common price for certain products and that the difference between the two price levels is the accession compensatory amount;

Whereas the accession compensatory amounts and the fixed components referred to in Articles 78, 273, 279 and 287 of the Act of Accession of Spain and Portugal, import charges, export refunds and all other amounts charged or granted in trade with non-member countries, set in ECU, are, like the prices of the Member States concerned, converted into the currencies of those Member States by means of the agricultural conversion rates; whereas, for the purposes of calculating the monetary compensatory amounts, only the difference between the price level and the relevant amount expressed in ECU should be used; whereas, in order to simplify the system, and 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 and the fixed components, import charges, refunds and all other amounts to be charged or granted in trade with non-member countries should be corrected by a monetary coefficient reflecting the state of the currency of the Member State which is to apply the monetary compensatory amount;

Whereas products sent from one Member State to another Member State, and then re-exported to a non-member country without having been imported into the

(1) OJ No L 164, 24. 6. 1985, p. 6.
(2) OJ No L 138, 19. 5. 1981, p. 14.
(3) OJ No L 85, 31. 3. 1983, p. 84.

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 to export levies;

Whereas a similar situation arises in respect of:

— products exported in accordance with Council Directive 76/119/EEC of 18 December 1975 on the harmonization of the 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 Directive 84/444/EEC (3), when the relevant products are subsequently released for free circulation in a Member State other than that in which they were obtained;

Whereas the coefficient mentioned above should therefore be applied to:

— the import charge fixed in ECU and deductible in accordance with Article 10 of Council Directive 76/119/EEC,

— the import charge fixed in ECU and set in accordance with Article 4 of Council Directive 73/95/EEC of 26 March 1973 on methods of application of inward processing (4), as last amended by Directive 75/681/EEC (5);

Whereas the monetary coefficient should likewise be applied to trade in those products imported and re-exported in a single operation and for which no monetary compensatory amount is applied;

Whereas the system of monetary compensatory amounts cannot be operated satisfactorily, from the economic point of view, unless the monetary coefficient is also applied in cases where, as part of a tender award procedure concerning trade with non-member countries, the amounts shown in the statement of award to a particular successful tenderer are fixed in national currency;

Whereas, to ensure parallel operation of the export refunds arrangements and the monetary compensatory amounts system for goods coming under Council Regulation (EEC) No 3033/80 of 11 November 1980 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products (6), it should be stipulated that the agricultural conversion rate and the monetary coefficient to be applied for the conversion into national currencies of the export refunds will be those valid for the respective basic products contained in the goods concerned;

Whereas the monetary coefficient applied to levies and refunds charged or paid on trade with non-member countries is part of the monetary compensatory amount; whereas this coefficient is derived from the percentage used for the calculation of the monetary compensatory amount and is fixed by the Commission at the same time; whereas it should be stipulated that the percentage to be used is that corresponding to the monetary compensatory amount actually applied;

Whereas, for the purpose of calculating the monetary compensatory amounts applying to goods coming under Regulation (EEC) No 3033/80, the fact that the price of such goods is set not only with reference to the value of the basic agricultural products but also with reference to processing costs, should be taken into account; whereas, accordingly, certain fixed limits must be set for reasons of administrative simplification, and monetary compensatory amounts should therefore not be applied where the incidence of the highest monetary compensatory amount on the value of the goods concerned is less than 2,5 %; whereas, however, the figures used for the calculation must be monitored and the monetary compensatory amount should be re-introduced whenever this incidence is over 3 % for a significant period; whereas a monetary compensatory amount is not needed wherever, converted into ECU, it is less than 1 ECU per 100 kilograms of the product concerned;

Whereas rules must be laid down to cover the case where there are real monetary gaps differentiated according to product and the one-point change activating an alteration in the monetary compensatory amounts applies to only one of these gaps; whereas, in order to avoid unduly frequent alterations to the monetary compensatory amounts and to preserve, in the Member State concerned, the relationship between the prices for different products resulting from the application of different rates, simultaneous alterations to all the monetary compensatory amounts of the relevant Member State should be the rule; whereas the monetary compensatory amounts should be changed in accordance with this rule only if the one-point change applies to the real monetary gap which most closely reflects the real economic state of the currency concerned;

Whereas failure to respect a lower price limit on import of certain agricultural products subject to monetary compensatory amounts entails an increase in the import charge; whereas because of the compulsory application of the agricultural conversion rates this leads to higher prices for the products concerned whenever a currency appreciates; whereas, these prices, expressed in terms of the currencies of the Member States who took the currency measures in question, are increased in relation

(1) OJ No L 24, 30. 1. 1976, p. 58.
(2) OJ No L 58, 8. 3. 1969, p. 1.
(3) OJ No L 245, 14. 9. 1984, p. 28.
(4) OJ No L 120, 7. 5. 1973, p. 17.
(5) OJ No L 301, 20. 11. 1975, p. 1.
(6) OJ No L 323, 29. 11. 1980, p. 1.

to their value expressed in terms of the currencies of non-member countries and whereas, also, the compensatory amount is charged on import; whereas, on the other hand, where a currency is depreciated, the lower price limit may well not be complied with; whereas this difficulty can be overcome by an arrangement whereby the relevant price limit would be deemed to be respected if the offer price of the product supplied, plus or minus an amount reflecting the incidence of the currency situation on the relevant price limit, is not below that price limit;

Whereas Commission Regulation (EEC) No 1260/77 of 13 June 1977 suspending the monetary compensatory amounts applied to trade in live animals of the beef and veal sector between Ireland and Northern Ireland (1), Commission Regulation (EEC) No 1837/78 of 31 July 1978 defining the scope of Article 4 (5) of Regulation (EEC) No 1380/75 laying down detailed rules for the application of monetary compensatory amounts (2) and Commission Regulation (EEC) No 706/79 of 9 April 1979 laying down detailed rules for the application of Regulation (EEC) No 652/79 on the impact of the European monetary system on the common agricultural policy (3) have become devoid of object; whereas the provisions of Commission Regulation (EEC) No 897/84 of 31 March 1984 on the monetary compensatory amounts applicable in the beef and veal sector (4), Commission Regulation (EEC) No 3092/76 of 17 December 1976 on the application of the monetary compensatory amounts to certain beef and veal products (5) and Commission Regulation (EEC) No 1090/84 of 18 April 1984 on the monetary compensatory amounts applicable in the wine sector (6) can be included in this Regulation; whereas those Regulations should therefore be repealed;

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

This Regulation lays down detailed rules for the calculation of the monetary compensatory amounts introduced by Article 1 of Regulation (EEC) No 1677/85.

Article 2

1. The period referred to in the second indent of Article 5 (2) (b) and Article 10 of Regulation (EEC) No 1677/85 shall run from Wednesday to the following Tuesday.

2. Any alterations to the monetary compensatory amounts resulting from the assessment of the relevant data for the reference period referred to in paragraph 1 shall normally apply from the Monday following that period.

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 spread at any given time for spot rate transactions of 2,25 % of each other shall be derived from the rates for the ECU calculated daily by the Commission expressed in the currencies concerned and published in the 'C' series of the *Official Journal of the European Communities.*

Article 4

1. Whenever, for any Member State and for any product, the conditions for applying monetary compensatory amounts are met, a monetary compensatory amount shall be fixed.

2. The monetary compensatory amount shall be calculated on the basis of the price, corrected where appropriate in accordance with rules made in connection with the accession of new Member States.

3. By way of derogation from paragraph 2:

(a) as regards sugar the 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 storage cost offsetting scheme,

(b) in the beef and veal sector, the monetary compensatory amount shall be calculated on the basis of the intervention price for adult bovine animals in the Member State concerned, less 15 %,

(c) in the milk and milk products sector, the monetary compensatory amounts for all products except skimmed-milk powder, butter and products coming under subheading 04.03 B of the Common Customs Tariff, shall be calculated without taking into account the processing costs included in the intervention prices for butter and for skimmed-milk powder,

(d) in the wine sector, the monetary compensatory amount shall be calculated on the basis of

— the guaranteed minimum price referred to in Article 3a of Council Regulation (EEC) No 337/79 (7),

— the real monetary gap less a neutral margin of five percentage points.

Article 5

1. The monetary compensatory amounts fixed in accordance with Article 4 shall not apply to trade in goods coming under Regulation (EEC) No 3033/80

(1) OJ No L 146, 14. 6. 1977, p. 30.
(2) OJ No L 210, 1. 8. 1978, p. 51.
(3) OJ No L 89, 9. 4. 1979, p. 3.
(4) OJ No L 91, 31. 3. 1984, p. 73.
(5) OJ No L 348, 18. 12. 1976, p. 18.
(6) OJ No L 106, 19. 4. 1984, p. 43.
(7) OJ No L 54, 5. 3. 1979, p. 1.

where the incidence of the highest monetary compensatory amount on the value of the goods concerned is less than 2,5 %.

This incidence shall be calculated according to groupings of goods listed in the Common Customs Tariff. However, the basis used for the calculation shall be reviewed twice each year to check for changes in the data used for the calculation. Where the incidence exceeds 3 % for a significant period, monetary compensatory amounts shall be re-introduced for the goods concerned.

2. Reviews shall take place:

— in June, any reintroduction or removal taking place in August,

— in December, any reintroduction or removal taking effect in February.

However, in exceptional cases, the situation shall be reviewed and monetary compensatory amounts reintroduced between these dates.

3. Where the monetary compensatory amount is equivalent to less than 1 ECU per 100 kilograms of goods, it shall not be applied.

Article 6

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) as regards trade with a new Member State, both the accession compensatory amounts and the fixed components,

(b) as regards trade with non-member countries, import charges, or parts thereof and import subsidies and export refunds and levies,

which are fixed in ECU and apply to products subject to monetary compensatory amounts, shall be multiplied by a coefficient, hereinafter called the 'monetary coefficient'.

3. The monetary coefficient shall be derived from the percentage used for calculating the monetary compensatory amount and shall be fixed by the Commission at the same time as that amount.

4. Where the levy or refund is to be increased or reduced by accession compensatory amounts and monetary compensatory amounts and, at the same time, adjusted by the monetary coefficient, the calculation shall be made as follows:

(a) the accession compensatory amount is added to, or, as the case may be, subtracted from the levy or refund;

(b) the part of the resulting amount expressed in ECU is multiplied by the monetary coefficient;

(c) the amount thus obtained is first converted into national currency, and the monetary compensatory amount is then added to, or, as the case may be, subtracted from it.

5. When the refunds to be paid on basic agricultural products exported in the form of goods not covered by Annex II of the Treaty are converted into national currency, the conversion rates and the monetary coefficients to be applied shall be those applied to the relevant agricultural basic products for which the refund is paid.

Article 7

1. The monetary coefficient shall also be applied to:

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

— where the products to be exported have been sent 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,

— where Article 20 of Commission Regulation (EEC) No 3154/85 [1] applies;

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

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

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

— where Article 20 of Regulation (EEC) No 3154/85 applies;

(c) refunds and levies, 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 3154/85.

Article 8

1. During the period for which there are, in any Member State, real monetary gaps differentiated according to product, no alteration in the monetary compensatory amounts in accordance with the first indent of Article 9 (2) of Regulation (EEC) No 1677/85 shall take place unless the difference of one percentage point is reached for the smallest real monetary gap in the Member State concerned. If this is the case, the monetary compensatory amounts shall be altered for all products on the basis of the changes in the gaps recorded for each of them.

---

[1] See page 9 of this Official Journal.

2. If, during the period for which there are, in any Member State, monetary gaps differentiated according to product, a change is made, pursuant to Article 5 (3) (a) of Regulation (EEC) No 1677/85, in the monetary compensatory amounts applying to products for which in the Member State concerned the smallest monetary gap applies, the monetary compensatory amounts shall also be altered for the other products on the basis of the change in the gaps recorded for each of them.

Article 9

On import from non-member countries of products which fall within:

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

(i) in cases where positive monetary compensatory amounts are applied by the importing Member State, plus,

(ii) in cases where negative monetary compensatory amounts are applied by the importing Member State, minus,

the amount referred to in the following subparagraph, is not less than the sluice-gate price.

The said agreement is calculated by multiplying the sluice-gate price by a coefficient reflecting the percentage by which the currency of the importing Member State has appreciated or depreciated.

(b) the following sectors:

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

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

shall be deemed to have been respected whenever, for the product in question, the offer price

(i) plus any positive monetary compensatory amount,

(ii) minus any negative monetary compensatory amount,

is no lower than the sluice-gate price or the reference free-at-frontier price.

Article 10

1. Regulations (EEC) No 3092/76, No 1260/77, No 1837/78, No 706/79, No 1372/81, No 897/84 and No 1090/84 are hereby repealed.

2. In all Community instruments in which reference is made to Regulation (EEC) No 1372/81, that reference shall be deemed to refer to the corresponding Articles of this Regulation.

Article 11

This Regulation shall enter into force on 1 January 1986.

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

Done at Brussels, 11 November 1985.

For the Commission

Frans ANDRIESSEN

Vice-President