COMMISSION REGULATION (EEC) No 3156/85

of 11 November 1985

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

Whereas transitional measures concerning the application of monetary compensatory amounts are laid down in Commission Regulation (EEC) No 2836/84 (2), as amended by Regulation (EEC) No 3027/84 (3); whereas on 11 June 1985 the Council introduced a coherent set of agri-monetary rules; whereas the rules on transitional measures should therefore be brought into line with them;

Whereas the monetary compensatory amounts of certain Member States may sometimes undergo substantial changes;

Whereas, because of these changes, there is a risk of speculation in certain areas, possibly resulting in deflections of trade;

Whereas certain measures which can be taken when there is a risk that changes in the monetary compensatory amounts will be followed by deflections of trade should be determined immediately; whereas the dates, products and movements of the products concerned should be determined in each particular case where such measures are to be applied;

Whereas, to avoid such deflections, it should be provided that, in the case of products liable to such speculation, the monetary compensatory amounts applicable before the changes should remain applicable to the products concerned for a limited period after the date of the changes; whereas this must also apply whenever the monetary compensatory amount has been fixed in advance to a date beyond the date of the change;

Whereas, in the light of experience gained with regard to the processing of butter, the 'obtaining' of butter should be defined for the purposes of this Regulation;

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

For the purposes of this Regulation:

— 'date of the change' shall mean the date on which the new rates of the monetary compensatory amounts enter into force,

— 'initial date' shall mean the date on or after which there is a risk of speculation.

Article 2

1. By way of derogation from the Regulation fixing the monetary compensatory amounts in force during the period beginning on the date of the change, monetary compensatory amounts in force on the day before that date for the products listed in Annex I shall remain applicable during the period indicated in that Annex.

By way of derogation from Article 5 of Commission Regulation (EEC) No 3155/85 (4) the monetary compensatory amounts in force on the day before the date of the change shall apply to products listed in Annex 1 exported during the period indicated in that Annex under cover of a certificate with advance fixing of the monetary compensatory amounts applied for, on or after the date of the change.

Save as otherwise provided in Articles 3, 4, 5 and 6, this paragraph shall apply to the imports and exports referred to in paragraphs 2, 3 and 4.

2. Paragraph 1 shall apply in the case of exports, from the Member States referred to in column 1 of Annex II (A), of products indicated in column 2, to the destinations referred to in column 3, and in the case of imports, into the Member States referred to in column 1 of Annex II (B) and (C), of products indicated in column 2, from countries referred to in column 3.

3. Paragraph 1 shall also apply in respect of products imported into any of the Member States indicated in column 1 of Annex II (C) after having been subject, in that Member State, to one of the arrangements referred to in Article 2 (2) (b) of Commission Regulation (EEC) No 3154/85 (5) after the initial date.

(1) OJ No L 164, 24. 6. 1985, p. 6.
(2) OJ No L 268, 9. 10. 1984, p. 11.
(3) OJ No L 287, 31. 10. 1984, p. 8.

(4) See page 22 of this Official Journal.
(5) See page 9 of this Official Journal.

4. Paragraph 1 shall also apply in all cases of import of the products concerned into one of the Member States indicated in column 1 of Annex II (C) from one of the Member States referred to in column 1 of Annex II (B) and (C).

5. In the case of export to non-member countries from the Member States indicated in Annex II (A) the representative rate and the monetary coefficient referred to in Article 6 (2) of Commission Regulation (EEC) No 3153/85 [1] in force on the day before the date of the change for the products concerned shall also remain applicable.

Article 3

1. Article 2 (1) and (5) shall not apply:

(a) in respect of exports as referred to in column 1 of Annex II (A) to the corresponding destinations indicated in column 3;

(b) in respect of imports as referred to in column 1 of Annex II (B) from one of the corresponding Member States indicated in column 3,

where:

— the products were harvested or obtained in the exporting Member State,

— the products derive from pigs or cattle slaughtered in the exporting Member State,

— prior to export, the goods were cleared for import into the exporting Member State before the initial date or on or after the date of the change.

Member States shall verify that the above conditions are met. Where appropriate, they shall require presentation of relevant evidence within periods they shall set and, at all events, within a period of three months, except in the case of *force majeure.*

2. Where it can be determined, when customs export formalities are completed, that the conditions set out in paragraph 1 are met, one of the following entries, authenticated by the stamp of the customs office which accepted the export declaration, shall be made on the document attesting the Community character of the products and made out when the goods were exported from a Member State indicated in column 3 of Annex II (B):

— 'Produkter, der opfylder betingelserne i artikel 3, stk. 1, i forordning (EØF) nr. 3156/85 (overgangsforanstaltninger MUB)',

— 'Die Bedingungen von Artikel 3 Absatz 1 der Verordnung (EWG) Nr. 3156/85 (Übergangsmaßnahmen WAB) erfüllende Erzeugnisse',

— 'Προϊόντα που πληρούν τους όρους του άρθρου 3 παράγραφος 1 του κανονισμού (ΕΟΚ) αριθ. 3156/85 (μεταβατικά μέτρα ΝΕΠ)',

— 'Products which meet the conditions laid down in Article 3 (1) of Regulation (EEC) No 3156/85 (transitional measures: MCA)',

— 'Produits remplissant les conditions de l'article 3 paragraphe 1 du règlement (CEE) n° 3156/85 (mesures transitoires MCM)',

— 'Prodotti che soddisfano alle condizioni dell'articolo 3, paragrafo 1, del regolamento (CEE) n. 3156/85 (misure transitorie ICM)',

— 'Produkten in overeenstemming met de voorwaarden van artikel 3, lid 1 van Verordening (EEG) nr. 3156/85 (overgangsmaatregelen voor MCB)'.

This paragraph shall not apply when the products are exported to a Member State for which the monetary compensatory amount is granted by the exporting Member State.

3. Where paragraph 1 is applied, evidence that the monetary compensatory amount valid from the date of the change may be applied in a Member State indicated in column 1 of Annex II (B) shall be provided:

— either by the document referred to in paragraph 2,

— or by the original of a certificate issued in the exporting Member State and transmitted by administrative channels to the competent agency of the Member State of destination indicated in Annex IV.

Article 4

Article 2 (1) shall not apply to imports as referred to in column 1 of Annex II (C) from one of the provenances corresponding thereto, indicated in column 3, if:

— the products were not harvested or obtained in the importing Member State, or

— the products do not derive from the slaughter of pigs or cattle in the importing Member State, or

— prior to import, the goods were not exported from the importing Member State after the initial date and before the date of the change.

Member States shall verify that the above conditions are met. Where appropriate, they shall require presentation of appropriate evidence within periods they shall set and, at all events, within a period of three months, except in the case of *force majeure.*

[1] See page 4 of this Official Journal.

Article 5

Article 2 (1) shall not apply to products which, before being made subject to one of the arrangements referred to in Article 2 (3), came from:

(a) one of the Member States indicated in column 1 of Annex II (B) or (C):
   — in respect of products to which monetary compensatory amounts were applicable upon export from the Member State of provenance, in cases where the customs export formalities were completed in that State before the initial date or on or after the date of the change,
   — in respect of other products, in cases where the conditions laid down in the first, second and third indents of Article 4 are met;

(b) a country not indicated in column 1 of Annex II (B) or (C) if the conditions laid down in:
   — the first, second and third indents of Article 3 (1) are met, in the case of a Member State indicated in column 3 of Annex II (B),
   — the first, second and third indents of Article 4 are met, in all other cases.

Member States shall verify that the above conditions are met. Where appropriate, they shall require presentation of appropriate evidence within periods they shall set and, at all events, within a period of three months, except in the case of *force majeure*. In the case referred to in the first indent, the evidence shall be that specified in Article 3 (3).

Article 6

Article 2 (1) shall not apply to imports as referred to in Article 2 (4):

— of products to which monetary compensatory amounts were applicable upon export from the Member State of provenance, in cases where the customs export formalities were completed in that country before the initial date or on or after the date of the change,

— of other products, where the conditions laid down in the first, second and third indents of Article 4 are met.

Member States shall verify that the above conditions are met. Where appropriate, they shall require presentation of appropriate evidence within periods they shall set and, at all events, within a period of three months, except in the case of *force majeure*.

Article 7

Article 20 of Regulation (EEC) No 3154/85 shall not apply to the products referred to in Annex I during the period specified for each of them.

Article 8

1. For exports from the provenances indicated in column 1 of Annex II (A) and column 3 of Annex II (B) or (C) of products falling within subheading 04.03 B of the Common Customs Tariff manufactured from products falling within subheading 04.03 A of the Commom Customs Tariff, the monetary compensatory amount valid on the day before the date of the change shall remain applicable if, for the latter products, the conditions laid down in the first and third indents of Article 3 (1) or the first and third indents of Article 4 are not satisfied.

2. For the purposes of this Regulation, products falling within subheading 04.03 A of the Common Customs Tariff consigned from another Member State or a non-member country which have undergone one or more substantial processing operations in the Member States indicated in column 1 of Annex II (A) and column 3 of Annex II (B) or (C) shall not be considered to have been obtained in the Member States indicated in column 1 of Annex II (A) and column 3 of Annex II (B) or (C).

Article 9

1. The certificate referred to in the second indent of Article 3 (3) shall comprise an original and a copy and shall be made out on a form conforming to the model shown in Annex III. It shall be about 210 × 297 millimetres in size. The paper used shall weigh at least 40 grams per square metre and shall be white. It shall be printed and filled out in one of the official Community languages, to be selected by the competent authority of the exporting Member State. It shall be filled out either by typewriter or by hand. If handwritten, block letters must be used.

Each certificate shall be distinguished by a serial number assigned by the issuing agency. The issuing agency shall retain a copy of each certificate.

2. Where there is doubt as to the authenticity of the certificate or of the entries and endorsements on it, the competent national departments shall send the document or a photocopy thereof to the issuing agency for verification. This may also be done on a sampling basis, but in such cases only a photocopy of the certificate shall be sent.

Article 10

Export licences or advance fixing certificates entailing advance fixing of the monetary compensatory amount,

issued from the date of the change until the date indicated in Annex I, shall include in box 18a one of the following entries:

— 'Det MUB er forudfastsat, jf. dog bestemmelserne i forordning (EØF) nr. 3156/85',

— 'Vorausfestsetzung des WAB vorbehaltlich der Verordnung (EWG) Nr. 3156/85',

— "Προκαθορισμός του ΝΕΠ, με την επιφύλαξη του κανονισμού (ΕΟΚ) αριθ. 3156/85',

— 'Advanced fixing of MCA, subject to Regulation (EEC) No 3156/85',

— 'Préfixation du MCM, sous réserve du règlement (CEE) n° 3156/85',

— 'Fissazione anticipata dell'ICM, fatto salvo il disposto del regolamento (CEE) n. 3156/85',

— 'Voorfixatie van het MCB, onverminderd Verordening (EEG) nr. 3156/85'.

Article 11

For the purposes of this Regulation:

— the date of the change and the initial date,

— the products and the periods indicated in Annex I,

— the product movements and the corressponding products indicated in Annex II, and

— the agencies indicated in Annex IV

shall be determined in accordance with the procedure laid down in Article 26 of Council Regulation (EEC) No 2727/75 [1] or, as appropriate, in the corresponding Articles of the other Regulations on the common organization of the agricultural markets.

Derogations from, or additions to, this Regulation may be determined in accordance with the same procedure.

Article 12

Regulation (EEC) No 2836/84 is hereby repealed.

Article 13

This Regulation shall enter into force on 1 January 1986.

It shall apply only for the periods to be determined in accordance with the procedure referred to in Article 11.

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

[1] OJ No L 281, 1. 11. 1975, p. 1.

ANNEX I

Products concerned	Applicable until
To be determined in accordance with the procedure referred to in Article 11	To be determined in accordance with the procedure referred to in Article 11

ANNEX II

A

1	2	3
Exportation from a Member State	*Products concerned*	*Destination*
Where the positive MCA is increased or the negative MCA reduced; to be determined in accordance with the procedure referred to in Article 11	To be determined in accordance with the procedure referred to in Article 11	To be determined in accordance with the procedure referred to in Article 11

B

1	2	3
Importation into a Member State	*Products concerned*	*Member State of provenance*
Where the positive MCA is reduced or the negative MCA increased; to be determined in accordance with the procedure referred to in Article 11	To be determined in accordance with the procedure referred to in Article 11	To be determined in accordance with the procedure referred to in Article 11

C

1	2	3
Importation into a Member State	*Products concerned*	*Provenance*
Where the positive MCA is reduced or the negative MCA increased; to be determined in accordance with the procedure referred to in Article 11	To be determined in accordance with the procedure referred to in Article 11	To be determined in accordance with the procedure referred to in Article 11

EUROPEAN COMMUNITY

1 Exporter (Name and full address)	**ATTESTATION** **monetary compensatory amounts certificate** **No** **Original**
2 Consignee (Name and full address)	3 ISSUING AGENCY
	4 Exporting Member State / 5 Member State of destination

6 Marks and numbers — Number and nature of packages — Description of goods	7 Quantity (1)

8 Document proving Community character of goods	9 Export declaration (2)
Type: Number:	Type: Number:
Custums office:	Customs office:
Date: Day Month Year	Date of acceptance: Day Month Year

10 ATTESTATION OF ISSUING AGENCY

It is hereby attested that the new monetary compensatory amount is applicable in the Member State of destination to the goods described above.

Place: Signature: Stamp:

Date: Day Month Year

(1) Quantity to be referred to for application of monetary compensatory amounts.
(2) To be filled out in accordance with national requirements.

ANNEX IV

List of competent agencies referred to in Article 3 (3), to be determined in accordance with the procedure referred to in Article 11