COMMISSION REGULATION (EEC) No 3521/88

of 11 November 1988

amending a number of Regulations in the agrimonetary field

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff [1], as last amended by Regulation (EEC) No 1315/88 [2], and in particular Article 15 thereof,

Having regard to Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture [3], as last amended by Regulation (EEC) No 1889/87 [4], and in particular Article 12 thereof,

Whereas, following the entry into force of the combined nomenclature, a number of Regulations in the agrimonetary field require amendment; whereas these amendments concern Commission Regulation (EEC) No 3152/85 of 11 November 1985 laying down detailed rules for the application of Regulation (EEC) No 1676/85 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy [5], as amended by Regulation (EEC) No 590/86 [6], Commission Regulation (EEC) No 3153/85 of 11 November 1985 laying down detailed rules for the calculation of monetary compensatory amounts [7], as last amended by Regulation (EEC) No 3403/88 [8], Commission Regulation (EEC) No 3154/85 of 11 November 1985 laying down detailed rules for the administative application of monetary compensatory amounts [9], as last amended by Regulation (EEC) No 361/88 [10], Commission Regulation (EEC) No 3155/85 of 11 November 1985 providing for the advance fixing of monetary compensatory amounts [11], as last amended by Regulation (EEC) No 1866/88 [12], and Commission Regulation (EEC) No 3156/85 of 11 November 1985 on transitional measures concerning the application of monetary compensatory amounts [13]; whereas it is a question of purely technical adaptations;

Whereas, in accordance with the second subparagraph of Article 15 of Regulation (EEC) No 2658/87, technical adaptations of Community acts referring to the combined nomenclature are carried out by the Commission; whereas changes of substance are effected under the procedure established by the relevant agricultural instruments of the Commission or of the Council;

Whereas, so far, where operators have failed to comply with time limits set for placing merchandise in victualling warehouses or for provision of proof necessary to obtain payment of monetary compensatory amounts, the amounts have been withheld; whereas the present rules should be made less stringent; whereas, accordingly, action should be taken corresponding to that laid down in Commision Regulation (EEC) No 3665/87 [14];

Whereas the form for the Community transit document and the T 5 control copy has been changed; whereas, accordingly, certain references to that document in Regulation (EEC) No 3154/85 should be amended;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 2 (3) (c) of Regulation (EEC) No 3152/85 is hereby replaced by the following:

'(c) subsidies fixed in advance for deliveries to the French overseas department of Reúnion of rice falling within CN code 1006;'.

Article 2

Regulation (EEC) No 3153/85 is hereby amended as follows:

1. The second indent of Article 4 (3) (c) is replaced by the following:

'— for all products except skimmed-milk powder, butter and products falling within CN code 0405 00 90 shall be calculated without taking into account the processing costs included in the intervention price for butter and for skimmed-milk powder;'.

[1] OJ No L 256, 7. 9. 1987, p. 1.
[2] OJ No L 123, 17. 5. 1988, p. 2.
[3] OJ No L 164, 24. 6. 1985, p. 6.
[4] OJ No L 182, 3. 7. 1987, p. 1.
[5] OJ No L 310, 21. 11. 1985, p. 1.
[6] OJ No L 58, 1. 3. 1986, p. 1.
[7] OJ No L 310, 21. 11. 1985, p. 4.
[8] OJ No L 299, 1. 11. 1988, p. 57.
[9] OJ No L 310, 21. 11. 1985, p. 9.
[10] OJ No L 35, 9. 2. 1988, p. 15.
[11] OJ No L 310, 21. 11. 1985, p. 22.
[12] OJ No L 166, 1. 7. 1988, p. 27.
[13] OJ No L 310, 21. 11. 1985, p. 27.
[14] OJ No L 351, 14. 12. 1987, p. 1.

2. The first indent of Article 5 is replaced by the following:

'— products falling within CN codes 2007 91 10, 2007 99 10, 2007 99 31, 2007 99 33, 2007 99 35, 2007 99 39 coming under Council Regulation (EEC) No 426/86 (*), with a sugar content exceeding 50 % by weight,

(*) OJ No L 49, 27. 2. 1986, p. 1.'

Article 3

Regulation (EEC) No 3154/85 is hereby amended as follows:

1. Article 6 (a), (b) and (c) are replaced by the following:

'(a) the CN code,

(b) where appropriate, the additional code used for fixing the monetary compensatory amount as well as a description of the products in accordance with the nomenclature used for monetary compensatory amounts,

(c) the net mass of the products or, where appropriate, the quantity expressed in the unit of measurement used for calculating the monetary compensatory amount for each CN code.'

2. Article 8 (6) is replaced by the folowing:

'6. In the case of obtained goods covered by Regulation (EEC) No 3033/80 containing products falling within CN code 1702 or codes 2106 90 30 to 2106 90 59 which have been obtained from cereals or processed cereals, the quantities of basic products actually used and the notional qsuantities listed in Annex I to Regulation (EEC) No 3034/80 shall, notwithstanding the provisions of the third subparagraph of paragraph 4, be grouped together in the following two categories:

— cereals and processed cereals; lactose, sugar and sugar syrups,

— milk and milk products, other than lactose.'

3. Article 9 (1) (a), (b) and (c) are replaced by the following:

'(a) the CN code,

(b) where appropriate, the additional code used for fixing the monetary compensatory amount as well as a description of the products in accordance with the nomenclature used for monetary compensatory amounts,

(c) the net mass of the products or, where appropriate, the quantity expressed in the unit of measurement used for calculating the monetary compensatory amount for each CN code.'

4. Article 10 (1) is replaced by the following:

'1. In trade between Member States, the particulars required by Article 9 (1) (a) and (c) shall be entered in box 33, 38 (net mass) or 31 (other unit of measure) respectively of the internal Community transit document to be used.

Where one of the procedures provided for in Chapter 1 of Title IV of Commission Regulation (EEC) No 1062/87 (*) is used, the particulars shall be entered in the box entitled "description of goods" of the document prescribed by those arrangements. The particulars shall be authenticated by the stamp of the customs office of departure.

(*) OF No L 107, 22. 4. 1987, p. 1.'

5. Article 15 (1) and (2) are replaced by the following:

'1. Payment by an exporting Member State of a monetary compensatory amount which should be granted by the importing Member State shall be subject to production of proof that the products have actually been imported into the Member State concerned.

Such proof shall be provided by the production of the T 5 control copy, hereinafter referred to as "the control copy", issued and used in accordance with the provisions of Commission Regulation (EEC) No 2823/87 (*) and of this Article.

Boxes 33, 38, 103 and 107 of the control copy shall be completed.

Box 104 of the control copy shall be completed under the heading "Other" with the following entry:

— Destinado a la importación en ..... (Estado miembro importador)

— Til indførsel i ..... (indførselsmedlemsstat)

— Zur Einfuhr nach ..... (einführender Mitgliedstaat)

— Προοριζόμενο για εισαγωγή στ. ..... (κράτος μέλος εισαγωγής)

— For import into ..... (importing Member State)

— Destiné à l'importation en ..... (État membre importateur)

— Destinato all'importazione in ..... (Stato membro importatore)

— Bestemd voor invoer in ..... (invoerende Lid-Staat)

— Destinado à importação em ..... (Estado-membro importador)

One of the following shall be entered in Box 106 of the control copy:

— Montante compensatorio monetario que concederá ..... (el Estado miembro exportador) por cuenta ..... (del Estado miembro importador)

— Monetære udligningsbeløb ydes af ..... (udførselsmedlemsstat) på vegne af ..... (indførselsmedlemsstat)

— Von ..... (ausführender Mitgliedstaat) für die Rechnung ..... (des einführenden Mitgliedstaats) zu gewährender Währungsausgleichsbetrag

— Νομισματικό εξισωτικό ποσό που χορηγείται από ..... (το κράτος μέλος εξαγωγής) για λογαριασμό του ..... (κράτος μέλος εισαγωγής)

— Monetary compensatory amount to be granted by ..... (the Member State of export) on behalf of ..... (the importing Member State)

— Montant compensatoire à octroyer par ..... (l'État membre d'exportation) pour le compte de ..... (l'État membre d'importation)

— Importo compensativo da concedere da ..... (lo Stato membro di esportazione) per conto di ..... (lo Stato membro di importazione)

— Door ..... (de uitvoerende Lid-Staat) namens ..... (de invoerende Lid-Staat) toe te kennen monetair compenserend bedrag

— Montante compensatório monetário a conceder pelo ..... (Estado-membro de exportação) por conta ..... (do Estado-membro de importação)

2. When the products have been imported, the competent customs office of the Member State of destination shall complete the "control of use and/or destination" box by adding to the phrase "have received the use and/or destination declared overleaf on ..." the date of acceptance of the import entry.

(*) OJ No L 270, 23. 9. 1987, p. 1.'

6. Article 17 (2) is replaced by the following:

'2. Except in cases of *force majeure,* documents relating to the grant of monetary compensatory amounts must be submitted within 12 months following the date on which the customs authorities accepted the import or export declaration.

Where proof that all the requirements laid down by Community rules have been complied with is furnished within the six months following the 12-month period, the monetary compensatory amount paid shall be 85 % of the compensatory amount which would have been paid had all the requirements been complied with.

Where the monetary comdpensatory amount has been paid in advance in accordance with Article 16 (3) and proof that all the requirements laid down by Community rules have been complied with has been furnished within the six months following the 12-month period, the amount to be reimbursed shall be 85 % of the security.'

7. The following Article 17a is inserted:

'Article 17a

1. Except in cases of *force majeure,* where the 30-day period for entry into victualling warehouses provided for in Article 16 (4) has not been complied with, the monetary compensatory amount paid shall in the first instance be reduced by 15 %. For each day by which the 30-day period is exceeded, the remaining amount shall further be reduced by 10 %.

2. Except in cases of *force majeure,* where the proof provided for in Article 17 (2) is furnished within six months following the 12 month period and where the 30-day period referred to in paragraph 1 has not been complied with, the amount paid shall be equal to the monetary compensatory amount, reduced in accordance with paragraph 1, minus 15 % of the amount which would have been paid if all the time limits had been complied with.

3. The total monetary compensatory amount lost may not exceed the full amount of the monetary compensatory amount which would have been paid had all the requirements been complied with.'

8. Article 19 (3) (a), (b) and (c) are replaced by the following:

'3. (a) For the purposes of paragraph 1, if, before reaching its specified destination, a product cleared through customs for export crosses territories of Member States other than that of the Member State on the territory of which it was cleared, proof that this product has reached the specified destination shall be provided by the production of the T 5 control copy issued and used in accordance with the provisions of Regulation (EEC) No 2823/87 and those of this Regulation;

(b) In the cases referred to in paragraph 1 (a) and (b), boxes 33, 38, 103 and 107 of the control copy shall be completed. A suitable entry shall be made in box 104;

(c) For deliveries to rigs or platforms, boxes 33, 38, 103 and 107 of the copy shall be completed. One of the following shall be entered in box 104 under the heading "Other":

— Suministro para abastecimiento de plataformas
— Proviant til platforme
— Bevorratungslieferung für Plattformen
— Προμήθειες τροφοδοσίας για εξέδρες
— Catering supplies for platform
— Livraison pour l'avitaillement des plates-formes
— Provviste di bordo per piattaforma
— Leverantie voor boordproviand aan platform
— Fornecimento para abastecimento das plataformas"

9. Article 27 (1) is replaced by the following:

'1. The Member States are hereby authorized not to apply monetary compensatory amounts to maize falling within CN code 1005 90 00 and exported temporarily from a Member State to another Member State for drying.'

10. Article 31 (1) and (2) and the introductory phrase of Article 31 (3) are replaced by the following :

'1. Additional notes 2 to Chapter 4 and 2 to Chapter 10 of the combined nomenclature and Council Regulation (EEC) No 2727/75 (*) shall apply *mutatis mutandis* to the monetary compensatory amounts which must be charged on import of a product from a third country.

(*) OJ No L 281, 1. 11. 1975, p. 1.'

2. The following provisions shall apply *mutatis mutandis* where the monetary compensatory amount must be charged on export of a product to a third country or on import or export in intra-Community trade :

— Additional note 5 to Chapter 2 of the combined nomenclature,

— Additional note 2 to Chapter 4 of the combined nomenclature,

— Additional note 2 to Chapter 10 of the combined nomenclature,

— Additional note 1 to Chapter 11 of the combined nomenclature,

— Regulation (EEC) No 2727/75.

3. Monetary compensatory amounts to be granted in respect of mixtures falling within Chapters 2, 10 or 11 of the combined nomenclature shall be determined as follows :'

Article 4

The third subparagraph of Article 2 (1) of Regulation (EEC) No 3155/85 is hereby replaced by the following :

'Monetary compensatory amounts may not be fixed in advance in respect of products falling within CN codes 0402 10 91, 0402 10 99, 0402 29, 0402 99, 0403 10 31, 0403 10 33, 0403 10 39, 0403 90 31, 0403 90 33, 0403 90 39, 0403 90 61, 0403 90 63, 0403 90 69, 0404 90 51, 0404 90 53, 0404 90 59, 0404 90 91, 0404 90 93, 0404 90 99 unless the export refund is fixed in advance for all the ingredients of the relevant product.'

Article 5

Article 8 of Regulation (EEC) No 3156/85 is hereby replaced by the following :

'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 CN code 0405 00 90 manufactured from products falling within CN code 0405 00 10, 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 CN code 0405 00 10 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 deemed 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 6

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

Article 3 (1), (3), (5) and (8) shall apply only to operations the relevant declarations for which will be accepted from 1 January 1989.

Article 3 (6) and (7) shall also apply to operations files for which are still open at the time of the entry into force of this Regulation.

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

Done at Brussels, 11 November 1988.

For the Commission

Frans ANDRIESSEN

Vice-President