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## Legislation

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## I

*(Acts whose publication is obligatory)*

## COMMISSION REGULATION (EEC) No 1371/81

of 19 May 1981

laying down detailed rules for the administrative 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 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 <sup>(1)</sup>, as last amended by Regulation (EEC) No 876/81 <sup>(2)</sup>, and in particular Article 6 thereof,

Whereas experience has shown that the provisions of Commission Regulation (EEC) No 1380/75 of 29 May 1975 laying down detailed rules for the application of monetary compensatory amounts <sup>(3)</sup>, as last amended by Regulation (EEC) No 3476/80 <sup>(4)</sup>, should be clarified and made more detailed in order to ensure uniform application within the Community; whereas some amendments should be made to them in the process and they should be separated into provisions on calculation and provisions on administrative application of monetary compensatory amounts;

Whereas the monetary compensatory amount applicable to the 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 processing of agricultural products <sup>(5)</sup> is calculated on the quantities indicated in the Annex to Council Regulation (EEC)

No 3034/80 of 11 November 1980 fixing the quantities of basic products considered to have been used in the manufacture of the goods covered by Regulation (EEC) No 3033/80 <sup>(6)</sup>, unless otherwise provided in the Regulation fixing the monetary compensatory amounts; whereas this must be taken into consideration when applying monetary compensatory amounts for such products obtained under inward processing arrangements;

Whereas the basic products considered to have been used in the manufacture of the goods covered by Regulation (EEC) No 3033/80 are cereals, certain milk products and sugar; whereas the basic products actually used may be goods obtained from the processing of the abovementioned products, or products covered by:

- Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products <sup>(7)</sup>, as last amended by the Act of Accession of Greece,
- Council Regulation (EEC) No 3330/74 of 19 December 1974 on the common organization of the market in sugar <sup>(8)</sup>, as last amended by Regulation (EEC) No 3455/80 <sup>(9)</sup>,
- Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals <sup>(10)</sup>, as last amended by Regulation (EEC) No 1187/81 <sup>(11)</sup>;

<sup>(1)</sup> OJ No L 106, 12. 5. 1971, p. 1.

<sup>(2)</sup> OJ No L 88, 2. 4. 1981, p. 28.

<sup>(3)</sup> OJ No L 139, 30. 5. 1975, p. 37.

<sup>(4)</sup> OJ No L 363, 31. 12. 1980, p. 71.

<sup>(5)</sup> OJ No L 323, 29. 11. 1980, p. 1.

<sup>(6)</sup> OJ No L 323, 29. 11. 1980, p. 7.

<sup>(7)</sup> OJ No L 148, 28. 6. 1968, p. 13.

<sup>(8)</sup> OJ No L 359, 31. 12. 1974, p. 1.

<sup>(9)</sup> OJ No L 360, 31. 12. 1980, p. 17.

<sup>(10)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(11)</sup> OJ No L 121, 5. 5. 1981, p. 2.

Whereas monetary compensatory amounts to be granted on export have a corresponding effect as export refunds; whereas some provisions of the present Regulation should follow those of Regulation (EEC) No 2730/79 of 29 November 1979 laying down detailed rules for the application of the system of export refunds on agricultural products <sup>(1)</sup>, as last amended by Regulation (EEC) No 3476/80;

Whereas Commission Regulation (EEC) No 798/80 of 31 March 1980 laying down detailed rules on the advance payment of export refunds and positive monetary compensatory amounts in respect of agricultural products <sup>(2)</sup>, as amended by Regulation (EEC) No 2674/80 <sup>(3)</sup>, provides particular procedures to be complied with; whereas the present Regulation shall be without prejudice to the provisions of Regulation (EEC) No 798/80;

Whereas it is necessary to make provision in case of recourse to the provisions of Article 2a of Regulation (EEC) No 974/71, for common rules for applying or opting not to apply those provisions;

Whereas the effect of a monetary compensatory amount corresponds to the technical effect of an import or export duty; whereas the procedures for the application of monetary compensatory amounts should in such cases be as close as possible to provisions applied on import and export; whereas such provisions are, in particular, laid down in the following legal acts:

- Council Regulation (EEC) No 1818/75 of 10 July 1975 on the agricultural levies, compensatory amounts and other import charges applicable to agricultural products and to certain goods resulting from their processing, contained in travellers' personal baggage <sup>(4)</sup>, as amended by Regulation (EEC) No 2780/78 <sup>(5)</sup>,
- Council Regulation (EEC) No 754/76 of 25 March 1976 on the customs treatment applicable to goods returned to the customs territory of the Community <sup>(6)</sup>,
- Council Regulation (EEC) No 1990/76 of 22 July 1976 on the customs treatment applicable to goods imported for testing <sup>(7)</sup>,

- Commission Regulation (EEC) No 223/77 of 22 December 1976 on provisions for the implementation of the Community transit procedure and for certain simplifications of that procedure <sup>(8)</sup>, as last amended by Regulation (EEC) No 3298/80 <sup>(9)</sup>,
- Council Regulation (EEC) No 2102/77 of 20 September 1977 introducing a Community export declaration form <sup>(10)</sup>,
- Council Regulation (EEC) No 3060/78 of 19 December 1978 providing exemption from import duties for goods in small consignments of a non-commercial character from third countries <sup>(11)</sup>,
- Council Regulation (EEC) No 1430/79 of 2 July 1979 on the repayment or remission of import or export duties <sup>(12)</sup>,
- Council Regulation (EEC) No 1697/79 of 24 July 1979 on the post-clearance recovery of import duties or export duties which have not been required of the person liable for payment on goods entered for a customs procedure involving the obligation to pay such duties <sup>(13)</sup>,
- Council Directive 68/312/EEC of 30 July 1968 on harmonization of the provisions laid down by law, regulation or administrative action relating to:
  1. customs treatment of goods entering the customs territory of the Community,
  2. temporary storage of such goods <sup>(14)</sup>, as last amended by the Act of Accession of Greece,
- Council Directive 69/169/EEC of 28 May 1969 on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from the turnover tax and excise duty on imports in international travel <sup>(15)</sup>, as last amended by Directive 78/1032/EEC <sup>(16)</sup>,
- Council Directive 71/235/EEC of 21 June 1971 on harmonization of the provisions laid down by law, regulation or administrative action relating to the usual forms of handling which may be carried

<sup>(1)</sup> OJ No L 317, 12. 12. 1979, p. 1.

<sup>(2)</sup> OJ No L 87, 1. 4. 1980, p. 42.

<sup>(3)</sup> OJ No L 274, 18. 10. 1980, p. 11.

<sup>(4)</sup> OJ No L 185, 16. 7. 1975, p. 3.

<sup>(5)</sup> OJ No L 333, 30. 11. 1978, p. 7.

<sup>(6)</sup> OJ No L 89, 2. 4. 1976, p. 1.

<sup>(7)</sup> OJ No L 219, 12. 8. 1976, p. 14.

<sup>(8)</sup> OJ No L 38, 9. 2. 1977, p. 20.

<sup>(9)</sup> OJ No L 344, 19. 12. 1980, p. 16.

<sup>(10)</sup> OJ No L 246, 27. 9. 1977, p. 1.

<sup>(11)</sup> OJ No L 366, 28. 12. 1978, p. 1.

<sup>(12)</sup> OJ No L 175, 12. 7. 1979, p. 1.

<sup>(13)</sup> OJ No L 197, 3. 8. 1979, p. 1.

<sup>(14)</sup> OJ No L 194, 6. 8. 1968, p. 13.

<sup>(15)</sup> OJ No L 133, 4. 6. 1969, p. 6.

<sup>(16)</sup> OJ No L 366, 28. 12. 1978, p. 28.

out in customs warehouses and in free zones <sup>(1)</sup>, as amended by Directive 76/634/EEC <sup>(2)</sup>,

- Council Directive 74/651/EEC of 19 December 1974 on the tax reliefs to be allowed on the importation of goods in small consignments of a non-commercial character within the Community <sup>(3)</sup>,
- Council Directive 78/453/EEC of 22 May 1978 on the harmonization of provisions laid down by law, regulation or administrative action concerning deferred payment of import duties or export duties <sup>(4)</sup>,
- Council Directive 79/623/EEC of 25 June 1979 on the harmonization of provisions laid down by law, regulation or administrative action relating to customs debt <sup>(5)</sup>,
- Council Directive 79/695/EEC of 24 July 1979 on the harmonization of procedures for the release of goods for free circulation <sup>(6)</sup>;

Whereas Commission Regulation (EEC) No 3094/76 of 17 December 1976 laying down additional rules for the application of monetary compensatory amounts in trade between Ireland and the United Kingdom <sup>(7)</sup> authorizes the competent authorities to make the granting of monetary compensatory amounts subject to special conditions in order to prevent irregularities; whereas, in a frontier area, a greater risk of fraud exists; whereas the competent authorities in all Member States should have this possibility;

Whereas the provisions of Commission Regulation (EEC) No 483/80 of 28 February 1980 on the non-application of monetary compensatory amounts to products undergoing certain forms of handling in a Member State and being returned thereafter to the Member State of dispatch <sup>(8)</sup> should be incorporated into the present Regulation;

Whereas the Belgo-Luxembourg Economic Union (BLEU) and the Netherlands have decided to maintain the margins of fluctuation between their currencies which obtained before 9 May 1971 and have not altered the relationship between their currencies; whereas, therefore, widening the fluctuation margins will, in the case of those Member

States, only affect trade with other Member States and with third countries, trade within the BLEU and between the BLEU and the Netherlands being unaffected; whereas, for this reason, those Member States have declared, pursuant to Article 233 of the Treaty, that they do not desire to apply monetary compensatory amounts between themselves; whereas, for the purpose of applying the system of monetary compensatory amounts, those countries should be regarded as a single Member State;

Whereas experience has shown that the time limit for submission of the relevant documents, if grants of monetary compensatory amounts are to be made, should be increased;

Whereas the measures provided for in this Regulation are in accordance with the opinions of all the relevant Management Committees,

HAS ADOPTED THIS REGULATION:

## TITLE I

### DEFINITIONS

#### *Article 1*

1. This Regulation lays down detailed rules for the administrative application of compensatory amounts introduced by Article 1 of Regulation (EEC) No 974/71, hereinafter called 'monetary compensatory amounts'.

2. For the purposes of this Regulation:

(a) 'products' shall mean both:

- agricultural products covered by the common market organization, and
- goods covered by Regulation (EEC) No 3033/80;

(b) 'import' shall mean:

- release for free circulation of products not complying with the terms of Article 9 (2) of the Treaty, and
- in cases of introduction of products complying with the terms of Article 9 (2) of the Treaty and coming from another Member State:
  - (aa) release for home use, or
  - (bb) their being placed under a customs procedure or under a system giving

<sup>(1)</sup> OJ No L 143, 29. 6. 1971, p. 28.

<sup>(2)</sup> OJ No L 223, 16. 8. 1976, p. 17.

<sup>(3)</sup> OJ No L 354, 30. 12. 1974, p. 57.

<sup>(4)</sup> OJ No L 146, 2. 6. 1978, p. 19.

<sup>(5)</sup> OJ No L 179, 17. 7. 1979, p. 31.

<sup>(6)</sup> OJ No L 205, 13. 8. 1979, p. 19.

<sup>(7)</sup> OJ No L 348, 18. 12. 1976, p. 21.

<sup>(8)</sup> OJ No L 56, 29. 2. 1980, p. 17.

equivalent effect, ensuring observance of national provisions governing the release of goods for home use;

- (c) 'export' shall mean the dispatch, whether definitive or temporary, of products complying with the terms of Article 9 (2) of the Treaty or having been obtained under inward processing arrangements and containing agricultural products which before being used in the processing came within the terms of Article 9 (2) of the Treaty:

- from one Member State to another; and
- from a Member State to places outside the territory of the Community.

The supplies referred to in Article 5 of Regulation (EEC) No 2730/79 shall also be treated as exports.

The packing shall not be taken into consideration when determining whether or not products comply with the terms of Article 9 (2) of the Treaty;

- (d) 'export declaration' shall mean either:

- the export declaration as referred to in Regulation (EEC) No 2102/77, or
- any other declaration, prescribed without prejudice to specific customs provisions by the Member States, to be submitted to the customs authorities at the time of the completion of customs export formalities with a view to applying monetary compensatory amounts;

- (e) 'negative monetary compensatory amount' shall mean a monetary compensatory amount to be charged on export and granted on import;

- (f) 'positive monetary compensatory amount' shall mean a monetary compensatory amount to be granted on export and charged on import.

## TITLE II

### TRADE MECHANISMS

#### Section A

##### Field of application

#### Article 2

1. Monetary compensatory amounts shall be applied to products being imported or exported.

However, no monetary compensatory amounts shall be applied on export of products complying with the terms of Article 9 (2) of the Treaty when such products are coming from another Member State, and have not been imported before the completion of customs export formalities.

2. No monetary compensatory amount shall be applied to products introduced into a Member State either from a non-member country or from another Member State while the products are:

- (a) under the customs control referred to in Directive 68/312/EEC, or
- (b) under a customs warehousing or free zone procedure and provided that the products are subject to no treatment other than those defined as usual forms of handling in Directive 71/235/EEC.

#### Article 3

No monetary compensatory amount shall be granted on products which are not of sound and fair marketable quality, or on products intended for human consumption whose characteristics or condition exclude or substantially impair their use for that purpose.

#### Article 4

This Regulation shall be applicable without prejudice to the provisions on the advance payment of export refunds and positive monetary compensatory amounts laid down in Regulation (EEC) No 798/80.

### Section B

#### Import

#### Article 5

1. The monetary compensatory amount to be granted or levied on import shall be the amount applicable on the day on which the customs authorities accept the import entry, unless the amount is fixed in advance. However, if products are to be put on the market in the Member State where the products have been entered under inward processing arrangements, the amount shall be the amount applicable on the day on which the customs authorities accepted the relevant customs document for entry under the inward processing arrangements.

2. Products may be released by the customs authorities only when the monetary compensatory amounts to be levied have been paid or guaranteed or

the payment is deferred for the period allowed and under the conditions laid down by Directive 78/453/EEC.

#### Article 6

At the time of completion of the customs import formalities, the person concerned shall declare on the document prescribed for that purpose all such particulars as are necessary for determining the monetary compensatory amount, in particular:

- (a) the relevant heading or subheading of the Common Customs Tariff;
- (b) a description of the products in accordance with the nomenclature used for monetary compensatory amounts;
- (c) the net weight of the products or, where applicable, the quantity expressed in the unit of measurement to be taken into account in determining the monetary compensatory amount in respect of each heading or subheading of the Common Customs Tariff;
- (d) in so far as it is necessary for determining the monetary compensatory amount, particulars of the composition of the products.

### Section C

#### Export

#### Article 7

1. Unless the amount is fixed in advance and without prejudice to the provisions of Articles 25 (4) and 26, the monetary compensatory amount to be granted or levied on export shall be the amount applicable on the day on which the customs authorities accept the export declaration. This day shall also determine the quantity, nature and characteristics of the products exported.

2. When Articles 6 and 8 of Regulation (EEC) No 2730/79 apply, the monetary compensatory amount to be levied or granted shall be that applicable on the last day of the month unless fixed in advance.

3. When Article 7 of Regulation (EEC) No 2730/79 applies, the monetary compensatory amounts shall be calculated on the same basis as the export refunds.

4. At the time of acceptance of the export declaration, the products shall be placed under customs control and shall remain so until they have left the territory of the exporting Member State or until they have reached one of the destinations

referred to in Article 5 of Regulation (EEC) No 2730/79.

#### Article 8

1. In respect of products to be exported after having been obtained under inward processing, hereinafter referred to as obtained products, the following rules shall apply.

2. The monetary compensatory amounts shall apply to obtained products which are subject to the system of monetary compensatory amounts and:

(a) in the case of obtained products covered by a common market organization, contain agricultural products:

— which before being used in the processing complied with the terms of Article 9 (2) of the Treaty, and

— which would be subject to monetary compensatory amounts if exported unprocessed at the time of completion of the customs export formalities for the obtained products; or

(b) in the case of products covered by Regulation (EEC) No 3033/80, contain basic products which, before being used in the processing, complied with the conditions set out in the first and second indents of (a) above.

3. Where an obtained product:

(a) belongs to a category of products covered by a common market organization; or

(b) is covered by Regulation (EEC) No 3033/80 and the monetary compensatory amount is calculated by reference to the quantities of basic products actually contained therein and not fixed for the obtained product itself,

the amount to be applied shall be the total amount applicable to the products used in the processing which complied with the terms of Article 9 (2) of the Treaty.

4. In the case of an obtained product covered by Regulation (EEC) No 3033/80, but not coming within paragraph 3, the amount to be applied shall be that fixed for the obtained product, less the amount which would have been applied to the basic products actually used in the processing, but which did not comply with the terms of Article 9 (2) of the Treaty before being used in the processing, if these products

had been put into free circulation at the time of export of the obtained product.

However, the amount to be deducted shall not exceed the amount calculated on the basis of the notional quantities indicated in Annex I to Regulation (EEC) No 3034/80. For purposes of comparison of these amounts, the quantities of basic products actually used and the notional quantities indicated in Annex I to Regulation (EEC) No 3034/80 shall be grouped together within the following categories:

- cereals and processed cereals,
- milk and milk products, other than lactose,
- lactose, sugar and sugar syrups.

Within each of these categories, the amount calculated on the basis of the quantities actually used and the amount calculated from the notional quantity indicated in Annex I to Regulation (EEC) No 3034/80 shall be compared.

5. For the purposes of paragraphs 2, 3 and 4, the term 'basic products' means the products covered by:

- Regulation (EEC) No 804/68 (milk and milk products),
- Regulation (EEC) No 3330/74 (sugar),
- Regulation (EEC) No 2727/75 (cereals).

Goods covered by Regulation (EEC) No 3033/80 shall, if used in processing, also be considered as basic products.

6. On completion of customs export formalities in respect of obtained products covered by Regulation (EEC) No 3033/80, certificates as referred to in Article 6 of Regulation (EEC) No 3035/80 for the advance fixing of the refund on basic products shall not be accepted where they include advance fixing of the monetary compensatory amount.

#### Article 9

1. The export declaration used on the completion of customs export formalities must include all such particulars as are necessary for determining the monetary compensatory amount, in particular:

- (a) the relevant heading or subheading of the Common Customs Tariff;
- (b) a description of the products in accordance with the nomenclature used for monetary compensatory amounts;
- (c) the net weight of the products or, where applicable, the quantity expressed in the unit of

measurement to be taken into account in determining the monetary compensatory amount in respect of each heading or subheading of the Common Customs Tariff;

- (d) in so far as it is necessary for determining the monetary compensatory amount, particulars of the composition of the products.

2. If the exporter indicates, in particular by a statement or by not presenting the prescribed documents, his intention to refrain from the benefit of monetary compensatory amounts, no particulars in regard to the monetary compensatory amounts shall be declared.

#### Article 10

1. In trade between Member States the particulars required pursuant to Article 9 (1) (a) and (c) shall be entered in the 'description of goods' box or, where applicable, in the 'net weight' box of the internal Community transit document to be used.

Where one of the procedures provided for in Title IV, Section I, of Regulation (EEC) No 223/77 is applied, the particulars shall be entered in the 'description of goods' box of the document provided for under those procedures and shall be authenticated by the stamp of the customs office of departure.

2. Where a Community transit document is replaced by a new document, such document must include the same particulars as those entered on the previous document, together with a record of the type and registration number of that document and the name of the customs office of departure which issued it.

3. Where the competent authorities on import classify the products under a tariff heading or subheading different from that which is entered on the transit document, they shall inform the customs office of departure accordingly.

4. The provisions of paragraph 1 above shall not apply in respect of:

- products which are accompanied by the control copy referred to in Article 15 (1), and
- consignments the net quantity of which in respect of each customs heading or subheading does not exceed 1 000 kilograms or, as appropriate, 10 hectolitres.

#### Article 11

1. Where on completion of customs export formalities products are placed under one of the

procedures provided for in Section I of Title IV of Regulation (EEC) No 223/77 for carriage to a station or a consignee in the territory of another Member State, or outside the Community, the office of departure shall ensure that the following endorsement is entered on the export declaration:

'Departure from the geographical territory of (either Member State of departure or the Community) under the simplified Community (rail/large containers) transit procedure'.

2. The office of departure may permit the contract of carriage to be modified so that the operation is ended within the Member State of departure only if it is established:

- that, if the monetary compensatory amount has already been paid, such amount has been repaid, or
- that the necessary steps have been taken by the authorities concerned to ensure that the monetary compensatory amount is not paid.

However, if the monetary compensatory amounts have been paid pursuant to Article 16 (2) and the product has not left the territory of the Member State of departure, the office of departure shall so inform the agency responsible for payment of the monetary compensatory amount and shall provide it as soon as possible with all the necessary particulars. In such cases the monetary compensatory amount shall be regarded as having been wrongly paid.

#### *Article 12*

1. If the monetary compensatory amount charged on export is, in accordance with Article 4a (1) (b) of Regulation (EEC) No 974/71, deducted from the export refund, the amount by which the export refund is reduced must, at the time of acceptance of the export declaration, be covered by an appropriate security.

In those cases where the monetary compensatory amount exceeds the export refund and the provisions of the previous subparagraph are applied, the amount by which the monetary compensatory amount is reduced must, at the time of acceptance of the export declaration, be covered by an appropriate security.

2. The security may be on the basis of each transaction or of a number of transactions and shall be determined having regard to the amount of the reduction of the export refund or the monetary compensatory amount, as appropriate.

3. On production of the proof required by Article 9 and, as appropriate, Articles 10 and 20 or 26 of Regulation (EEC) No 2730/79 or the appropriate Articles in the Regulations containing special

provisions for the granting of the export refund for particular products, the security is to be released in proportion to the refund that would have been granted against that proof if the monetary compensatory amount had not been chargeable.

4. If any of the proofs required have not been furnished within the time limits prescribed, the proportion not released because such proofs are absent shall be forfeited. However, the security shall not be forfeited in cases where the proof is furnished within any period by which the original period has been extended.

5. In those cases where the security is forfeited, late payment of the amount guaranteed by the security shall be considered as a further payment facility within the meaning of Article 7 of Directive 78/453/EEC. This facility shall be considered as having been granted from the latest date upon which the monetary compensatory amount would have been paid, under the provisions of the Directive, if Article 4a (1) (b) of Regulation (EEC) No 974/71 had not been applied.

6. The security provided for in paragraph 2 need not be required if:

- (a) — the export refund is the same for all destinations, or
  - the lowest export refund is in excess of the monetary compensatory amount; and
- (b) — the products are placed under the Community transit system, or an equivalent system, for export to a non-member country, or
  - the products are placed under a national administrative system which ensures their export to a non-member country from the Member State in which customs export formalities have been completed; and

(c) national provisions provide for the recovery of the amount by which reduction is made pursuant to paragraph 1 in cases where no entitlement to a refund is established.

7. The provisions of this Article shall not apply in cases where the products to be exported benefit from the arrangements laid down by Regulation (EEC) No 565/80.

*Article 13*

The monetary compensatory amount or, where applicable, that part which exceeds the export refund to be paid on export shall be paid or guaranteed unless the payment is deferred for the period allowed and under the conditions laid down by Directive 78/453/EEC before the customs authorities allow the export or the admission under the arrangements laid down by Regulation (EEC) No 565/80.

*Section D***Application of Article 2a of Regulation (EEC) No 974/71***Article 14*

1. Where an exporting Member State wishes to exercise the option provided for in Article 2a of Regulation (EEC) No 974/71, it shall inform the Commission of its intention after it has obtained the agreement of the importing Member State. The Commission in turn shall inform the other Member States.

Products for which the export declaration was accepted before the date on which the option was exercised shall not be subject to the provisions of the said Article 2a.

2. If, after having had recourse to the provisions of Article 2a of Regulation (EEC) No 974/71, an exporting or importing Member State wishes to abandon its exercise of the option provided for therein, it shall first inform the other Member State concerned and the Commission, which shall inform the other Member States.

In such a case, products in respect of which the export declaration was accepted before the date on which such abandonment takes effect shall remain subject to the provisions of the said Article.

*Article 15*

1. Payment by the exporting Member State of the monetary compensatory amount which should be granted by the importing Member State shall be conditional upon the production of proof that the products have been imported into the Member State concerned.

The proof shall be furnished by production of a Control Copy T No 5, hereinafter referred to as 'the Control Copy', issued and used in accordance with the provisions of Regulation (EEC) No 223/77 and of this Article. The 'Additional Information' section of the Control Copy shall be completed as follows:

box 101: by insertion of the Common Customs Tariff heading or subheading of the products;

box 103: by insertion of the net weight of the products in words;

box 104: by deletion of the phrase 'leaving the geographical territory of the Community' in the first indent and by addition of one of the following phrases to the second indent:

— 'For import into ..... (importing Member State) (Regulation (EEC) No 1371/81)',

— 'Til indførsel i ..... (den importerende medlemsstat) (Forordning (EØF) nr. 1371/81)',

— 'Zur Einfuhr in ..... (einführender Mitgliedstaat) (Verordnung (EWG) Nr. 1371/81)',

— 'Προοριζόμενο για εισαγωγή εις ..... (Κράτος μέλος εισαγωγής) (κανονισμός (ΕΟΚ) αριθ. 1371/81)',

— 'Destiné à l'importation en ..... (État membre importateur) (Règlement (CEE) n° 1371/81)',

— 'Destinato all'importazione in ..... (Stato membro importatore) (Regolamento (CEE) n. 1371/81)',

— 'Bestemd voor invoer in ..... (invoerende Lid-Staat) (Verordening (EEG) nr. 1371/81)'.

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 been dealt with as indicated overleaf on .....' the date of acceptance of the import entry and by entering one of the following phrases under the heading 'Remarks':

— 'Monetary compensatory amount not granted',

— 'Monetært udligningsbeløb ikke ydet',

— 'Währungsausgleichsbetrag nicht gewährt',

— 'Δέν χορηγήθηκε νομισματικό έξισωτικό ποσό',

— 'Montant compensatoire monétaire non octroyé',

— 'Importo compensativo monetario non concesso',

— 'Monetair compenserend bedrag niet toegekend'.

3. When paragraph 1 is applied the particulars referred to in Article 6 shall be declared on the control copy.

4. When the control copy is received back by the customs office of departure or the relevant central

body it shall be sent to the paying agency through official channels.

5. Where the control copy referred to in paragraph 1 is not returned to the office of departure or relevant central body within three months of its issue owing to circumstances beyond the control of the person concerned, the latter may apply to the competent agency for other documents to be accepted as equivalent, stating the grounds for such application and furnishing supporting documents. Such supporting documents shall include the transport document and a copy or photocopy of the import entry in the Member State of destination certified by the competent authorities.

In such case the competent office of the Member State of destination shall include on the copy of the import entry the same information as that specified in respect of the section of the control copy headed 'control as to use and/or destination'. This endorsement shall be authenticated by the stamp of the customs office.

6. Member States shall, not later than 1 March each year and for the preceding calendar year, send returns to the Commission showing for each product sector the number of applications made under paragraph 5, the reasons where known for the failure to return the control copy, the quantities and the compensatory amount claimed.

7. By way of derogation from paragraph 1, payment by the exporting Member State shall, in respect of products for which no monetary compensatory amounts were applicable when customs export formalities were completed but where such an amount is applicable at the moment when the products are imported, be conditional upon the production of:

- (a) the certified and endorsed copy or photocopy of the entry referred to in paragraph 5. Furthermore, the transport document and a copy of the export declaration shall be produced to the paying agency; or
- (b) a control copy issued retrospectively or in anticipation by the customs office of departure and used in accordance with the provisions of paragraphs 1 to 4.

## Section E

### Payment

#### Article 16

1. The monetary compensatory amount to be granted on import shall be paid only on submission of a copy of the import entry and, where applicable, any relevant attached documents, indicating the par-

ticulars referred to in Article 6 and that the products have been imported. Furthermore, the copy of the entry shall indicate the day on which the entry was accepted by the customs authorities. However, where Article 15 is applicable only the proof provided for in that Article, duly endorsed, shall be produced.

2. The monetary compensatory amount to be granted on export shall be paid only on submission of the export declaration indicating the particulars referred to in Article 9 and the day on which the declaration was accepted by the customs authorities. In addition, the declaration shall bear either the endorsement provided for in Article 11 (1) or it shall be proved that the products have:

- (a) left the territory of the exporting member State, or
- (b) reached one of the destinations referred to in Article 5 of Regulation (EEC) No 2730/79.

Such proof shall be furnished according to the provisions specified by the Member State in which the export declaration is accepted.

3. Where Article 25 of Regulation (EEC) No 2730/79 applies in respect of refunds, the provisions of that Article shall also apply *mutatis mutandis* to positive monetary compensatory amounts.

4. When Article 26 of Regulation (EEC) No 2730/79 applies, the monetary compensatory amount to be granted shall be paid in advance when proof is furnished that, within 30 days after the completion of customs export formalities, the products have been placed in a victualling warehouse.

#### Article 17

1. Payment of monetary compensatory amounts to be granted shall be made only on receipt of a written request from the person concerned. Member States may prescribe a special form this purpose.

2. Except in cases of *force majeure*, entitlement to the grant of monetary compensatory amounts shall be lost unless the relevant documents are submitted within the 12 months following the day on which the customs authorities accepted the import entry or the export declaration.

3. Payment of monetary compensatory amounts shall be made by the competent authorities within two

months from the day of deposit of sufficient supporting documents except in cases:

- (a) of *force majeure*; or
- (b) where administrative enquiries have been commenced concerning the entitlement to the monetary compensatory amounts. In such cases the payment shall be made only when the entitlement to the monetary compensatory amounts is accepted.

### TITLE III

#### EXEMPTIONS

##### *Article 18*

1. In respect of any export and in respect of import from another Member State, no monetary compensatory amount shall be applied to:

- (a) small consignments of a non-commercial character. The limits and the conditions of application of this exemption shall be the same as those laid down in Article 1 (2) of Directive 74/651/EEC;
- (b) products carried in travellers' personal luggage. The limits and the conditions of application of this exemption shall be the same as those set out in Directive 69/169/EEC;

However, for exports to non-member countries of products which are subject to export levies or other export charges imposed under the common agricultural policy or the special arrangements applicable to certain goods processed from agricultural products, the quantities in respect of which no monetary compensatory amount is applicable shall not exceed three kilograms per consignment or traveller;

- (c) products for testing. The conditions of application of this exemption shall be the same as those set out in Regulation (EEC) No 1990/76. However, in respect of export, only Articles 1, 4 and 6 of that Regulation shall apply.

2. For the purpose of paragraph 1 the total value of the consignments in question shall be ascertained by taking into account only the products which are subject to monetary compensatory amounts.

3. No monetary compensatory amount shall be granted on imports from non-member countries of products mentioned in paragraph 1.

##### *Article 19*

1. No monetary compensatory amount shall be charged on supplies for victualling within the Community:

- (a) sea-going vessels; or
- (b) aircraft serving on international routes, including intra-Community routes;

provided that no export refund is requested.

2. No monetary compensatory amount shall be charged on supplies to armed forces stationed in the territory of a Member State but not coming under its flag provided that:

- (a) the supplies are delivered from the internal market in the Member State in which the forces are stationed; and
- (b) no export refund is requested.

##### *Article 20*

Member States are authorized not to grant or levy monetary compensatory amounts on products declared at the same time both for release at import and for re-export. In such cases Member States shall ensure that no monetary compensatory amount is applied.

##### *Article 21*

1. No monetary compensatory amount shall be applicable in respect of the following transactions concerning products supplied for purposes of Community or national food-aid programmes:

- (a) in the case of products from intervention stocks, intra-Community trading operations and exports to non-member countries;
- (b) in the case of products mobilized on the Community market, exports to non-member countries.

2. No monetary compensatory amount shall be levied in respect of exports to non-member countries for purposes of food-aid programmes carried out by humanitarian organizations provided that such organizations have been approved under the procedure laid down in Article 6 of Regulation (EEC) No 974/71.

## TITLE IV

## COMMON PROVISIONS

## Article 22

1. Where products are reintroduced into a Member State after having been exported from that Member State to another Member State, the provisions of Regulation (EEC) No 754/76 shall be applied *mutatis mutandis* in the reimporting Member State, in respect of products complying with the conditions laid down in Article 2 (2) of that Regulation.

2. The following provisions shall apply *mutatis mutandis* in respect of monetary compensatory amounts to be levied in intra-Community trade:

- Regulation (EEC) No 1430/79 together with Article 25 (2) and (3) of the present Regulation,
- Regulation (EEC) No 1697/79,
- Directive 79/623/EEC, with effect from the day on which the Member States apply the necessary measures to comply with that Directive.

## TITLE V

## SPECIAL PROCEDURES

## Article 23

1. Without prejudice to Article 16, the competent authorities may, in trade in frontier areas, make the application of monetary compensatory amounts subject to special conditions in order to prevent irregularities.

2. Where an importing Member State exercises the power provided for in paragraph 1 and, by virtue of Article 2a of Regulation (EEC) No 974/71 the monetary compensatory amount is granted by the exporting Member State, the control copy referred to in Article 15 (1) shall be returned by the competent customs office of the Member State of destination only when proof is furnished that the conditions referred to in paragraph 1 have been fulfilled.

3. The Member States concerned shall inform the Commission, which shall inform the other Member States thereof, when measures are taken in implementation of paragraphs 1 and 2.

## Article 24

1. For the purposes of this Regulation, Belgium, the Netherlands and Luxembourg shall be considered as a single Member State.

2. If a Community document proving that a product is eligible for treatment as a Community product is used in trade between the Member States referred to in paragraph 1, the document shall include one of the following entries, authenticated by the stamp of the customs office of departure:

- 'Währungsausgleichsbetrag in Benelux nicht anwendbar',
- 'Montant compensatoire monétaire non applicable au Benelux',
- 'Monetair compenserend bedrag niet van toepassing in Benelux'.

## Article 25

1. This Article lays down the provisions for application of monetary compensatory amounts in respect of products for which an application for repayment or remission of import duties has been submitted according to Regulation (EEC) No 1430/79 and where the repayment or remission is conditional upon the re-exportation to a non-member country or the destruction of the products.

2. Where on re-export the application for repayment or remission has not yet been approved, any negative monetary compensatory amounts shall be secured and no positive monetary compensatory amount may be granted before the decision is made.

3. Where the application for repayment or remission has been approved by the decision-making authority and Article 23 of Regulation (EEC) No 1430/79 is applicable, no negative monetary compensatory amounts shall be levied nor shall any positive amounts be granted on re-exportation of the products concerned.

4. Where the application for repayment or remission has been approved by the decision-making authority and the products were not subject to monetary compensatory amounts at the time of release for free circulation but are subject to monetary compensatory amounts on re-exportation:

- (a) no monetary compensatory amount shall be applied on re-exportation if the customs export formalities are completed in the Member State where the products were originally imported;
- (b) monetary compensatory amounts shall be applied on re-exportation if the customs export

formalities are completed in another Member State. However, the exporting Member State may on request apply the amount which was applied at the time of import into that Member State.

5. Where destruction is requested of products which at the time of release for free circulation were not subject to monetary compensatory amounts and the destruction is to take place in a Member State other than that where the products were released for free circulation:

- (a) the authorization to destroy the products shall, when the Member State where the destruction is to be carried out applies negative monetary compensatory amounts, be conditional upon the repayment to the competent authorities of that Member State of the monetary compensatory amount granted on import into the said Member State;
- (b) the Member State where the destruction is to be carried out may, if positive monetary compensatory amounts were applied on import into that Member State, allow repayment to the person concerned of the amount levied.

#### Article 26

Where the provisions of Regulation (EEC) No 1430/79 are complied with and Article 23 of that Regulation is applicable, the negative monetary compensatory amount to be applied on re-exportation shall, in cases where the monetary compensatory amount on import exceeded the import duties, be the net amount granted on import. If at the time of re-exportation no decision has been made as regards the fulfilment of the conditions provided by Regulation (EEC) No 1430/79, the monetary compensatory amount fixed for the export shall be secured.

#### Article 27

1. Member States are authorized not to apply monetary compensatory amounts to maize falling within subheading 10.05 B of the Common Customs Tariff which is exported temporarily from one Member State to another to be dried.

2. The competent authorities of the Member State may refuse to grant the benefit of the arrangements provided for in this Article if the character of the applicant or the nature of the handling envisaged is not such as to guarantee that the whole transaction will be effected in accordance with the rules in force.

3. The non-application of monetary compensatory amounts provided for in paragraph 1 shall be allowed on condition that:

- the applicant is a natural or legal person established in the Member State of dispatch,
- the drying is undertaken in the Member State of destination on the instructions and for the account of the applicant,
- the maize, after having been dried, is returned within a period fixed by the competent authorities of the Member State of export and which does not exceed six months,
- the competent authorities of each of the Member States concerned authorize the transactions in question.

4. Member States shall take all necessary measures to ensure that the transactions are carried out under official supervision and that the quantity of maize exported agrees with the quantity returned after making allowance for unavoidable waste and losses in the course of the handling.

5. For the purposes of paragraph 4, Member States shall use the information document to facilitate the temporary exportation of goods as provided for in Annex E.8 to Council Decision 77/415/EEC<sup>(1)</sup>. In box C of the information document, headed 'Nature of proposed operations', the words 'Application of Article 27 of Regulation (EEC) No 1371/81' shall be inserted and the same words shall appear on the Community transit documents and on all relevant customs declarations.

#### Article 28

1. If the non-application of monetary compensatory amounts pursuant to Article 27 involves exemption from a monetary compensatory amount, the applicant must lodge a security equal to the amount which would otherwise have been levied.

2. Except in cases of *force majeure*, the security referred to in paragraph 1 shall be forfeit in its entirety or in proportion to the quantity of products concerned:

- (a) if the products have undergone an unauthorized form of handling; or
- (b) if the relevant transaction has not been completed within the time prescribed.

<sup>(1)</sup> OJ No L 166, 4. 7. 1977, p. 1.

3. Where, pursuant to Article 27, the monetary compensatory amount has not been granted and the security referred to in paragraph 1 has become forfeit, whether wholly or in part, the monetary compensatory amount shall, at the request of the party concerned, be granted in respect of the quantities concerned. Where the provisions of this paragraph are applied, the period referred to in Article 17 (2) shall commence on the day on which the security is forfeited.

#### Article 29

Member States shall provide all necessary information and assistance to each other for the purpose of enabling Articles 27 and 28 to be applied correctly. They shall inform the Commission annually, in January, of the number of cases dealt with and the quantities involved during the previous year.

#### Article 30

1. Additional Note 8 to Chapter 4 and Additional Note 3 to Chapter 10 of the Common Customs Tariff shall apply *mutatis mutandis* to monetary compensatory amounts when such amounts are to be levied on import from a non-member country.

2. The following Additional Notes of the Common Customs Tariff shall apply *mutatis mutandis* when a monetary compensatory amount is to be levied on export to a non-member country or on import or export in intra-Community trade:

- Additional Note 5 to Chapter 2,
- Additional Note 8 to Chapter 4,
- Additional Note 3 to Chapter 10, and
- Additional Note 3 to Chapter 11.

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

Done at Brussels, 19 May 1981.

3. Monetary compensatory amounts which may be granted on mixtures falling within Chapter 2, 10 or 11 of the Common Customs Tariff shall be determined as follows:

- (a) in mixtures where one of the components represents at least 90 % by weight, the rate applicable to that component applies;
- (b) in other mixtures, the rate applicable shall be that of the component which results in the lowest monetary compensatory amount. In cases where one or more of the components are not eligible for monetary compensatory amounts, no monetary compensatory amount shall be granted for the mixtures.

4. The provisions of paragraphs 1, 2 and 3 shall not apply to components for which special rules of calculation are laid down.

#### Article 31

Articles 6 to 16a and 18 to 21 of Regulation (EEC) No 1380/75, Regulations (EEC) No 3094/76 and (EEC) No 483/80 are hereby repealed.

They shall, however, continue to apply to products in respect of which customs formalities were completed before the entry into force of this Regulation.

#### Article 32

This Regulation shall enter into force on 1 July 1981.

However Article 17 (2) may be applied on request of the Party concerned in respect of transactions for which the time limit of six months previously specified expired after 1 January 1981.

*For the Commission*

Poul DALSGER

*Member of the Commission*

## 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 <sup>(1)</sup>, as last amended by Regulation (EEC) No 876/81 <sup>(2)</sup>, 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 <sup>(3)</sup> have been amended a number of times and on the last occasion by Regulation (EEC) No 3476/80 <sup>(4)</sup>; 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

<sup>(1)</sup> OJ No L 106, 12. 5. 1971, p. 1.

<sup>(2)</sup> OJ No L 88, 2. 4. 1981, p. 28.

<sup>(3)</sup> OJ No L 139, 30. 5. 1975, p. 37.

<sup>(4)</sup> 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, import 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 <sup>(1)</sup>,
- 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 <sup>(2)</sup>, 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 <sup>(3)</sup>, as amended by Directive 75/681/EEC <sup>(4)</sup>;

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

<sup>(1)</sup> OJ No L 24, 30. 1. 1976, p. 58.

<sup>(2)</sup> OJ No L 58, 8. 3. 1969, p. 1.

<sup>(3)</sup> OJ No L 120, 7. 5. 1973, p. 17.

<sup>(4)</sup> OJ No L 301, 20. 11. 1975, p. 1.

processing of agricultural products <sup>(1)</sup>, 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.

<sup>(1)</sup> 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**

| <i>Regulation (EEC) No 1380/75</i> | <i>This Regulation</i> |
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| Article 1                          | Article 1              |
| Article 2                          | Article 2              |
| Article 3                          | Article 3              |
| Article 4 (1)                      | Article 4              |
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| 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              |

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