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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEG) 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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽¹⁾, and in particular Article 12 thereof,

Having regard to Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture ⁽²⁾, and in particular Article 12 thereof,

Whereas Regulation (EEC) No 1676/85 provides for the cancellation of certain documents or certificates should those concerned suffer a disadvantage following adjustments to amounts fixed in advance; made following an alteration of the agricultural conversion rates in accordance with Article 6 or Article 8 of Regulation (EEC) No 1676/85;

Whereas those concerned may be considered as having accepted the disadvantage in cases where they undertook commitments at a time when the alteration of the agricultural conversion rate was known, concerning an operation to be effected after that alteration; whereas cancellation is not justified in such cases; whereas a rule must be provided to show from what date the alteration may be considered to have been known;

Whereas in other cases the disadvantage allows cancellation of the document certifying the advance fixing of an amount; whereas to assess the existence of a disadvantage, the situation before and after the adjustment must be compared; whereas, for this purpose, some of the factors concerning the relevant operation must be taken into consideration;

Whereas, however, only those consequences of exchange rate alterations referred to in Article 6 or Article 8 of Regulation (EEC) No 1676/85 may be taken into account; whereas under normal circumstances alterations to the central rate or normal changes in the market rate of a Member State's currency have an impact on the monetary compensatory amounts which should not be taken into account; whereas, similarly, an alteration in the contract price is an irrelevant factor, since it is entirely a matter for the individual concerned;

Whereas, on the other hand, other measures adopted under the Community agricultural regulations may influence the situation of those concerned; whereas this is the case, in particular, for a decision concerning prices fixed in ECU at Community level; whereas a change in the level of prices fixed in ECU affects either import or export charges and refunds, through the adjustments to be made in ECU under the market organization rules for the various products, or monetary compensatory amounts which have not been fixed in advance; whereas account should be taken of this when the disadvantage is being determined, so that in this way it can in certain cases be partly or wholly offset;

Whereas no adjustment related to a change in the agricultural conversion rate can be made for import or export charges or refunds fixed in advance at the same time as the monetary compensatory amounts; whereas the fixing in advance of these sums also entails the 'freezing' of the agricultural conversion rate and of the monetary coefficient applying to these charges and refunds which were valid when the sum was fixed in advance; whereas, consequently, there can be no disadvantage for the import or export charges and refunds fixed in advance, since these undergo no change following a change in the agricultural conversion rate;

Whereas the adjustments to be made under Article 8 of Regulation (EEC) No 1676/85 may normally be made subject to the same rules; whereas, however, there is no reason to implement the exception concerning the

⁽¹⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽²⁾ OJ No L 164, 24. 6. 1985, p. 6.

advance fixing of monetary compensatory amounts, as the adjustments in ECU made under Article 8 of Regulation (EEC) No 1676/85 also affect the import charges and refunds fixed in advance together with the monetary compensatory amounts;

Whereas, as regards the wine sector, certain exceptions in respect of the entry into force of the agricultural conversion rates must be made so as to ensure that intervention measures are carried out for all participants on the same terms;

Whereas this Regulation supersedes Commission Regulation (EEC) No 1054/78 of 19 May 1978 laying down detailed rules for the application of Regulation (EEC) No 878/77 on the exchange rates to be applied in agriculture and replacing Regulation (EEC) No 937/77 ⁽¹⁾;

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

1. Neither advance fixing nor the certificates or other documents which are evidence of that advance fixing may be cancelled under Article 6(3) of Regulation (EEC) No 1676/85 if:

- (a) for certificates or other documents certifying advance fixing: these documents are applied for within the meaning of Article 14 (1) of Commission Regulation (EEC) No 3183/80 ⁽²⁾,
- (b) for the amounts established following a tender award: a tender mentioning these amounts has been validly lodged,
- (c) for a contract concluded with an intervention agency: the contract was concluded,

on or after the date of public announcement of a decision on the alteration of the relevant agricultural conversion rate.

In the case of (b), the last day of the period allowed for lodging tenders shall, for the purposes of this Article, be deemed to be the day of the lodging of the application for the relevant certificate.

2. The publication of a press release by the body responsible for the alteration of the relevant agricultural conversion rate shall be deemed to be a public announcement. The date of publication of the press release in question shall be published by the Commission in the *Official Journal of the European Communities*.

A date different from that announced in the press release may be fixed in accordance with the procedure laid down in Article 12 of Regulation (EEC) No 1676/85.

⁽¹⁾ OJ No L 134, of 22. 5. 1978, p. 40.

⁽²⁾ OJ No L 338, of 13. 12. 1980, p. 1.

Article 2

1. This Article shall apply where adjustments are made in accordance with Article 6 and Article 8 (2) of Regulation (EEC) No 1676/85.

2. No adjustment under Article 6 of Regulation (EEC) No 1676/85 shall be made where the monetary compensatory amount has been fixed in advance.

3. For the amounts applicable in trade, the disadvantage conferring entitlement to cancellation of the certificate or other document certifying advance fixing shall be determined by comparing all the following amounts, where appropriate, valid before and after the entry into force of the new conversion rate:

- (a) import charges, except customs duties, fixed in advance, and, where appropriate, adjusted following a modification of prices in ECU,
- (b) export refunds and levies fixed in advance, and, where appropriate, adjusted following a modification of prices in ECU,
- (c) subsidies fixed in advance for deliveries to the French overseas department of Réunion of rice coming under heading No 10.06 of the Common Customs Tariff,
- (d) accession compensatory amounts,
- (e) monetary compensatory amounts.

4. The comparison shall be made in the currency of the Member State in which the certificate or other document was issued.

For the purposes of the comparison, no account shall be taken of any change in:

- (a) the purchase or sale price of the relevant product given in the contracts of the parties concerned, because of a change in a conversion rate,
- (b) the monetary compensatory amount, following a change only in the central rates or only in the recorded spot rates of national currencies.

5. For other amounts, including those given in a contract concluded with an intervention agency, the disadvantage conferring entitlement to cancellation shall be determined by comparing, in the currency of the Member State in which the competent intervention agency is situated, the amount given in the relevant document or in the contract before and after alteration of the agricultural conversion rate.

Article 3

At the request of the Member States the Commission shall supply the information necessary for calculating the disadvantage.

Article 4

Where the agricultural conversion rate is altered during the course of a wine growing year, the new rate shall not apply to the following operations, where the decisions to carry out these operations have been taken before the entry into force of the new rate:

- (a) the re-storage aid referred to in Article 10 of Council Regulation (EEC) No 337/79 ⁽¹⁾;

- (b) the measures referred to in Articles 11, 12a, 14, 14a, 15, 39, 40 and 41 of Regulation (EEC) No 337/79.

Article 5

Regulation (EEC) No 1054/78 is hereby repealed.

Article 6

This Regulation shall enter into force on 1 January 1986.

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

Done at Brussels, 11 November 1985.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 54, 5. 3. 1979, p. 1.

COMMISSION REGULATION (EEC) No 3153/85

of 11 November 1985

laying down detailed rules for the calculation of monetary compensatory amounts

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture ⁽¹⁾, and in particular Article 12 thereof;

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

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

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

Whereas for the purposes of applying Articles 5 (2) (b) and 10 of Regulation (EEC) No 1677/85, the period for recording the spot exchange rates used for finding the arithmetic mean for the purpose of calculating the monetary compensatory amounts must be determined; whereas the period must be sufficiently representative to show trends in rates and yet must allow those rates to be reflected as quickly as possible in the compensatory amounts fixed; whereas, therefore, in principle, a period

of seven days should be fixed for the purposes of technical administrative requirements and the date of entry into effect of new rates should be specified;

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

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

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

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

⁽¹⁾ OJ No L 164, 24. 6. 1985, p. 6.

⁽²⁾ OJ No L 138, 19. 5. 1981, p. 14.

⁽³⁾ OJ No L 85, 31. 3. 1983, p. 84.

re-exporting Member State, have a neutral status as regards monetary compensatory amounts; whereas, in such cases, the monetary coefficient should be applied to export refunds and to export levies;

Whereas a similar situation arises in respect of:

- products exported in accordance with Council Directive 76/119/EEC of 18 December 1975 on the harmonization of the provisions laid down by law, regulation or administrative action in respect of outward processing ⁽¹⁾,
- products obtained under the arrangements provided for in Council Directive 69/73/EEC of 4 March 1969 on the harmonization of provisions laid down by law, regulation or administrative action in respect of inward processing ⁽²⁾, as last amended by Directive 84/444/EEC ⁽³⁾, when the relevant products are subsequently released for free circulation in a Member State other than that in which they were obtained;

Whereas the coefficient mentioned above should therefore be applied to:

- the import charge fixed in ECU and deductible in accordance with Article 10 of Council Directive 76/119/EEC,
- the import charge fixed in ECU and set in accordance with Article 4 of Council Directive 73/95/EEC of 26 March 1973 on methods of application of inward processing ⁽⁴⁾, as last amended by Directive 75/681/EEC ⁽⁵⁾;

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

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

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

conversion into national currencies of the export refunds will be those valid for the respective basic products contained in the goods concerned;

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

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

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

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

⁽¹⁾ OJ No L 24, 30. 1. 1976, p. 58.

⁽²⁾ OJ No L 58, 8. 3. 1969, p. 1.

⁽³⁾ OJ No L 245, 14. 9. 1984, p. 28.

⁽⁴⁾ OJ No L 120, 7. 5. 1973, p. 17.

⁽⁵⁾ OJ No L 301, 20. 11. 1975, p. 1.

⁽⁶⁾ OJ No L 323, 29. 11. 1980, p. 1.

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Article 3

The spot rates of exchange of the currencies of the other Member States, in relation to each of the currencies of the Member States which are maintained within a maximum spread at any given time for spot rate transactions of 2,25 % of each other shall be derived from the rates for the ECU calculated daily by the Commission expressed in the currencies concerned and published in the 'C' series of the *Official Journal of the European Communities*.

Article 4

1. Whenever, for any Member State and for any product, the conditions for applying monetary compensatory amounts are met, a monetary compensatory amount shall be fixed.
2. The monetary compensatory amount shall be calculated on the basis of the price, corrected where appropriate in accordance with rules made in connection with the accession of new Member States.
3. By way of derogation from paragraph 2:
 - (a) as regards sugar the sector, the monetary compensatory amount shall be calculated on the basis of the intervention price increased by the amount of the levy charged on sugar of Community origin under the storage cost offsetting scheme,
 - (b) in the beef and veal sector, the monetary compensatory amount shall be calculated on the basis of the intervention price for adult bovine animals in the Member State concerned, less 15 %,
 - (c) in the milk and milk products sector, the monetary compensatory amounts for all products except skimmed-milk powder, butter and products coming under subheading 04.03 B of the Common Customs Tariff, shall be calculated without taking into account the processing costs included in the intervention prices for butter and for skimmed-milk powder,
 - (d) in the wine sector, the monetary compensatory amount shall be calculated on the basis of
 - the guaranteed minimum price referred to in Article 3a of Council Regulation (EEC) No 337/79 ⁽⁷⁾,
 - the real monetary gap less a neutral margin of five percentage points.

Article 5

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

⁽¹⁾ OJ No L 146, 14. 6. 1977, p. 30.

⁽²⁾ OJ No L 210, 1. 8. 1978, p. 51.

⁽³⁾ OJ No L 89, 9. 4. 1979, p. 3.

⁽⁴⁾ OJ No L 91, 31. 3. 1984, p. 73.

⁽⁵⁾ OJ No L 348, 18. 12. 1976, p. 18.

⁽⁶⁾ OJ No L 106, 19. 4. 1984, p. 43.

⁽⁷⁾ OJ No L 54, 5. 3. 1979, p. 1.

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

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

2. Reviews shall take place:

- in June, any reintroduction or removal taking place in August,
- in December, any reintroduction or removal taking effect in February.

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

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

Article 6

1. The amount fixed in accordance with Article 4 shall apply in trade between the Member States and in trade with non-member countries.

2. However,

- (a) as regards trade with a new Member State, both the accession compensatory amounts and the fixed components,
- (b) as regards trade with non-member countries, import charges, or parts thereof and import subsidies and export refunds and levies,

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

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

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

- (a) the accession compensatory amount is added to, or, as the case may be, subtracted from the levy or refund;
- (b) the part of the resulting amount expressed in ECU is multiplied by the monetary coefficient;
- (c) the amount thus obtained is first converted into national currency, and the monetary compensatory amount is then added to, or, as the case may be, subtracted from it.

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

Article 7

1. The monetary coefficient shall also be applied to:

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

- where the products to be exported have been sent from another Member State but have not been imported in the Member State where they have been cleared through customs for export to a non-member country,
- where Article 20 of Commission Regulation (EEC) No 3154/85 ⁽¹⁾ applies;

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

- for which relief has been given in accordance with Directive 69/73/EEC but which are to be collected later,
- which, in accordance with Article 10 of Directive 76/119/EEC, must be deducted from import charges on the reimported products,
- where Article 20 of Regulation (EEC) No 3154/85 applies;

(c) refunds and levies, set in national currency in the statement of award following an invitation to tender.

2. The monetary coefficient referred to in paragraph 1 shall be that of the Member State in which the amounts to be levied or granted are determined.

3. The terms 'import' and 'export' shall have the same meaning as that given in Article 1 (2) (b) and (c) of Regulation (EEC) No 3154/85.

Article 8

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

⁽¹⁾ See page 9 of this Official Journal.

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

Article 9

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

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

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

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

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

(b) the following sectors:

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

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

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

- (i) plus any positive monetary compensatory amount,
- (ii) minus any negative monetary compensatory amount,

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

Article 10

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

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

Article 11

This Regulation shall enter into force on 1 January 1986.

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

Done at Brussels, 11 November 1985.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 3154/85

of 11 November 1985

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

Whereas the detailed rules for the administrative application of monetary compensatory amounts are laid down in Commission Regulation (EEC) No 1371/81 ⁽²⁾, as last amended by Regulation (EEC) No 1603/84 ⁽³⁾; whereas, on 11 June 1985, the Council approved a coherent set of agrimonetary rules; whereas the detailed rules of application should be adjusted by adding clarifications on the basis of experience gained;

Whereas the monetary compensatory amount applicable to a product 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 ⁽⁴⁾, is calculated on the basis of 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 ⁽⁵⁾, unless the Regulation fixing the monetary compensatory amounts provides otherwise; whereas this should be taken into consideration when monetary compensatory amounts are applied to products obtained under inward processing arrangements.

Whereas the basic products deemed 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 of 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 ⁽⁶⁾, as last amended by Regulation (EEC) No 1298/85 ⁽⁷⁾,

— Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in sugar ⁽⁸⁾, as last amended by Regulation (EEC) No 1482/85 ⁽⁹⁾,

— Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽¹⁰⁾, as last amended by Regulation (EEC) No 1018/84 ⁽¹¹⁾;

Whereas monetary compensatory amounts to be granted on exports have the same effect as export refunds; whereas some provisions of this Regulation should correspond to those of Commission 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 ⁽¹²⁾, as last amended by Regulation (EEC) No 568/85 ⁽¹³⁾;

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 ⁽¹⁴⁾, as last amended by Regulation (EEC) No 1663/81 ⁽¹⁵⁾, provides particular procedures to be complied with; whereas this Regulation shall be without prejudice to Regulation (EEC) No 798/80;

Whereas provision should be made so that, should Article 10 of Regulation (EEC) No 1677/85 be used, there are common rules for applying, or for opting not to apply, those provisions;

Whereas the effect of a monetary compensatory amount is the same as the technical effect of an import or export duty; whereas the procedures for the application of monetary compensatory amounts should in such cases be

⁽¹⁾ OJ No L 164, 24. 6. 1985, p. 6.

⁽²⁾ OJ No L 138, 25. 5. 1981, p. 1.

⁽³⁾ OJ No L 152, 8. 6. 1984, p. 34.

⁽⁴⁾ OJ No L 323, 29. 11. 1980, p. 1.

⁽⁵⁾ OJ No L 323, 29. 11. 1980, p. 7.

⁽⁶⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽⁷⁾ OJ No L 137, 27. 5. 1985, p. 5.

⁽⁸⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽⁹⁾ OJ No L 151, 10. 6. 1985, p. 1.

⁽¹⁰⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽¹¹⁾ OJ No L 107, 19. 4. 1984, p. 1.

⁽¹²⁾ OJ No L 317, 12. 12. 1979, p. 1.

⁽¹³⁾ OJ No L 65, 6. 3. 1985, p. 5.

⁽¹⁴⁾ OJ No L 87, 1. 4. 1980, p. 42.

⁽¹⁵⁾ OJ No L 166, 24. 6. 1981, p. 9.

as close as possible to those applied on import and export; whereas these are, in particular, laid down in the following Regulations and other instruments:

- 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 ⁽¹⁾,
- Commission Regulation (EEC) No 223/77 of 22 December 1976 on provisions for the implementation of the Community transit procedure and for certain simplification of that procedure ⁽²⁾, as last amended by Regulation (EEC) No 1209/85 ⁽³⁾,
- Council Regulation (EEC) No 2102/77 of 20 September 1977 introducing a Community export declaration form ⁽⁴⁾,
- Council Regulation (EEC) No 1430/79 of 2 July 1979 on the repayment or remission of import or export duties ⁽⁵⁾, as last amended by Regulation (EEC) No 1672/82 ⁽⁶⁾,
- 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 ⁽⁷⁾, as last amended by Regulation (EEC) No 3308/80 ⁽⁸⁾,
- Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty ⁽⁹⁾,
- Council Regulation (EEC) No 3/84 of 19 December 1983 introducing arrangements for movement within the Community of goods sent from one Member State of temporary use in one or more other Member States ⁽¹⁰⁾,
- 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 ⁽¹¹⁾, 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 turnover tax and excise duty on imports in international travel ⁽¹²⁾, as last amended by Directive 78/1032/EEC ⁽¹³⁾,
- 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 out in customs warehouses and in free zones ⁽¹⁴⁾, as amended by Directive 76/634/EEC ⁽¹⁵⁾,
- 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 ⁽¹⁶⁾,
- 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 ⁽¹⁷⁾,
- 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 ⁽¹⁸⁾,
- Council Directive 79/695/EEC of 24 July 1979 on the harmonization of procedures for the release of goods for free circulation ⁽¹⁹⁾;
- Council Directive 81/177/EEC of 24 February 1981 on the harmonization of procedures for the export of Community goods ⁽²⁰⁾;

Whereas products of Community origin or in free circulation which are imported into a Member State for processing are not exempt from the application of monetary compensatory amounts; whereas this should be explicitly stated in the text;

Whereas a greater risk of fraud exists in a frontier area; whereas the competent authorities in all Member States should have the possibility to make the granting of monetary compensatory amounts subject to special conditions in order;

Whereas the measures provided for in this Regulation are in accordance with the opinions of all the relevant management committees, to forestall irregularities;

⁽¹⁾ OJ No L 89, 2. 4. 1976, p. 1.

⁽²⁾ OJ No L 38, 9. 2. 1977, p. 20.

⁽³⁾ OJ No L 124, 9. 5. 1985, p. 19.

⁽⁴⁾ OJ No L 246, 27. 9. 1977, p. 1.

⁽⁵⁾ OJ No L 175, 12. 7. 1979, p. 1.

⁽⁶⁾ OJ No L 186, 30. 6. 1982, p. 1.

⁽⁷⁾ OJ No L 197, 3. 8. 1979, p. 1.

⁽⁸⁾ OJ No L 345, 20. 12. 1980, p. 1.

⁽⁹⁾ OJ No L 105, 23. 4. 1983, p. 1.

⁽¹⁰⁾ OJ No L 2, 4. 1. 1984, p. 1.

⁽¹¹⁾ OJ No L 194, 6. 8. 1968, p. 13.

⁽¹²⁾ OJ No L 133, 4. 6. 1969, p. 6.

⁽¹³⁾ OJ No L 366, 28. 12. 1978, p. 28.

⁽¹⁴⁾ OJ No L 143, 29. 6. 1971, p. 28.

⁽¹⁵⁾ OJ No L 223, 16. 8. 1976, p. 17.

⁽¹⁶⁾ OJ No L 354, 30. 12. 1974, p. 57.

⁽¹⁷⁾ OJ No L 146, 2. 6. 1978, p. 19.

⁽¹⁸⁾ OJ No L 179, 17. 7. 1979, p. 31.

⁽¹⁹⁾ OJ No L 205, 13. 8. 1979, p. 19.

⁽²⁰⁾ OJ No L 83, 30. 3. 1981, p. 40.

HAS ADOPTED THIS REGULATION:

TITLE I

DEFINITIONS

Article 1

1. This Regulation lays down detailed rules for the administrative application of monetary compensatory amounts.

2. For the purposes of this Regulation:

(a) 'products' shall mean both:

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

(b) 'import' shall mean:

- (i) release into free circulation of products not covered by Article 9 (2) of the Treaty, and
- (ii) as regards the introduction of products covered by Article 9 (2) of the Treaty and coming from another Member State:
 - their release for home use, or
 - their being placed under a customs procedure, or under a system giving equivalent effect, in order to ensure observance of national provisions governing the release of goods for home use;

(c) 'export' shall mean the dispatch, whether permanent or temporary, of products covered by Article 9 (2) of the Treaty or obtained under inward processing arrangements and containing agricultural products which before processing were covered by Article 9 (2) of the Treaty:

- (i) from one Member State to another;
- (ii) from a Member State to a destination outside the Community
- (iii) from a Member State to one of the destinations mentioned in Articles 5 and 19b of Regulation (EEC) No 2730/79.

The packing shall not be taken into consideration when determining whether or not products are covered by Article 9 (2) of the Treaty;

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

- (i) the export declaration as referred to in Regulation (EEC) No 2102/77, or
- (ii) 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.

TITLE II

TRADE MECHANISMS

Section A

Field of application

Article 2

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

2. However, no monetary compensatory amounts shall be applied:

- (a) on export, to products covered by 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;
- (b) to products introduced into a Member State either from a non-member country or from another Member State while these products are:
 - under the customs control referred to in Directive 68/312/EEC, or
 - 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.

3. In intra-Community trade Member States may not exempt products of Community origin or products in free circulation from the application of monetary compensatory amounts when these products are imported for processing.

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 conditions exclude or substantially impair their use for that purpose.

Article 4

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

Section B

Import

Article 5

1. Unless the amount is fixed in advance, 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. However, if products are to be released for home use in the Member State where the products were 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 secured or payment has been deferred for the period allowed, 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 the purpose all the particulars needed to calculate the monetary compensatory amount, and 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 appropriate, the quantity expressed in the unit of measurement used for calculating the monetary compensatory amount for each heading or subheading of the Common Customs Tariff;
- (d) particulars of the composition of the products insofar as it is necessary for determining the monetary compensatory amount.

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. That day shall also determine the quantity, nature and characteristics of the product exported.

2. Where 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 it is fixed in advance.

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

4. From 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. Monetary compensatory amounts shall apply to those obtained products which are subject to 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 were covered by 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 processing complied with the conditions set out in (a) above.

3. Where an obtained product:

- belongs to a category of products covered by a common market organization; or
- is covered by Regulation (EEC) No 3033/80 and the monetary compensatory amount is calculated by reference to the quantities of basic products 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 were covered by Article 9 (2) of the Treaty.

4. In the case of an obtained product which is not covered by paragraph 3 but which is covered by Regulation (EEC) No 3033/80, 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 had these products been put into free circulation at the time of export of the obtained product, but which, however, were not covered by Article 9 (2) of the Treaty before being used in the processing.

Where calculation of the monetary compensatory amount for the obtained product has taken account of a production refund in respect of a basic product incorporated into the obtained product, this shall also be taken into account in the calculation of the amount to be deducted.

However, the amount to be deducted shall not exceed the amount calculated on the basis of the quantities listed in Annex I to Regulation (EEC) No 3034/80. In order to compare these amounts, the [quantities of] basic products actually used, and the quantities of the products referred to in Annex I to Regulation (EEC) No 3034/80, shall be grouped together into 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 quantities listed in Annex I to Regulation (EEC) No 3034/80, shall be compared.

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

- Regulation (EEC) No 804/68 (milk and milk products),
- Regulation (EEC) No 1785/81 (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. In the case of obtained goods covered by Regulation (EEC) No 3033/80 containing products falling within heading No 17.02 or subheading 21.07 F of the Common Customs Tariff which have been obtained from cereals or processed cereals, the quantities of basic products actually used and the notional quantities listed in Annex I to Regulation (EEC) No 3034/80 shall, by way of derogation from the third subparagraph of paragraph 4, be grouped together into the following two categories:

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

— milk and milk products, other than lactose.

7. Where the goods referred to in the second subparagraph of paragraph 5 are used in processing, the notional quantities listed in Annex I to Regulation (EEC) No 3034/80 shall, for the purposes of making the comparison required by the third subparagraph of paragraph 4, be considered as the quantities of basic products actually used.

8. The advance fixing certificates referred to in Article 6 of Regulation (EEC) No 3035/80 giving refunds for the basic products may not be used where they entail advance fixing of the monetary compensatory amount.

Article 9

1. The export declaration used for the completion of customs export formalities must include all the particulars needed to calculate the monetary compensatory amount, and 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 appropriate, the quantity expressed in the unit of measurement to be used for calculating the monetary compensatory amount for each heading or subheading of the Common Customs Tariff;
- (d) particulars of the composition of the products insofar as it is necessary for determining the monetary compensatory amount.

2. If the exporter indicates, in particular by a statement or by not submitting the documents prescribed, his intention to waive his rights to monetary compensatory amounts, no details relating to the monetary compensatory amounts need be declared.

Article 10

1. In trade between Member States the particulars required by Article 9 (1) (a) and (c) shall be entered in the 'description of goods' box or, where appropriate, 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 prescribed by 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, this new 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. If, on import, the competent authorities classify the products under a heading or subheading other than that which is entered on the transit document, they shall inform the customs office of departure accordingly.

4. Paragraph 1 shall not apply to:

- products which are accompanied by the control copy referred to in Article 15 (1), and
- consignments whose net quantity, for each tariff 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 altered 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 will not be paid.

However, if the monetary compensatory amount has been paid under Article 16 (2) and the product has not left the territory of the Member State of departure, the office of departure shall inform the agency responsible for payment of the monetary compensatory amount accordingly and shall provide it as soon as possible with all the necessary particulars. The monetary compensatory amount shall in that event be considered as having been wrongly paid.

Article 12

1. If the monetary compensatory amount charged on export is, in accordance with Article 11 (1) (b) of Regulation (EEC) No 1677/85, 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 fixed 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 shall 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 period 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 should have been paid, under the provisions of the Directive, if Article 11 (1) (b) Regulation (EEC) No 1677/85 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 Council Regulation (EEC) No 565/80 ⁽¹⁾.

Article 13

The customs authorities shall not permit export or the application of the arrangements laid down by Regulation (EEC) No 565/80 unless the monetary compensatory amount to be levied on export or, where appropriate, that part thereof which exceeds the refund to be granted on export has been paid or guaranteed, or unless payment thereof is deferred for the period allowed under the conditions laid down by Directive 78/453/EEC.

Section D

Application of Article 10 of Regulation (EEC) No 1677/85

Article 14

1. Where an exporting Member State wishes to exercise the option provided by Article 10 of Regulation (EEC) No 1677/85, it shall obtain the agreement of the importing Member State and then inform the Commission. The Commission shall in turn 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 said Article 10.

2. If, after having made use of Article 10 of Regulation (EEC) No 1677/85, an exporting or importing Member State wishes to cease doing so, it shall first inform the other Member State concerned and the Commission. The latter shall inform the other Member States.

In such cases, products for which the export declaration was accepted before the date when the ending of the option took effect shall remain subject to the said Article 10.

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 subject to production of proof that the products have been imported into the Member concerned.

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

- box 101:
insert the Common Customs Tariff heading or subheading of the products;
- box 103:
insert the net weight of the products in words;
- box 104:
delete the phrase 'leaving the geographical territory of the Community' in the first indent and add one of the following phrases to the second indent:
 - 'Til indførsel ... (den importerende medlemsstat) — forordning (EØF) nr. 3154/85,'
 - 'Zur Einfuhr in ... (einführender Mitgliedstaat — Verordnung (EWG) Nr. 3154/85,'
 - 'Προοριζόμενο για εισαγωγή εις ... (κράτος μέλος εισαγωγής) — κανονισμός (ΕΟΚ) αριθ. 3154/85,'
 - 'For import into ... (importing Member State) — Regulation (EEC) No 3154/85,'
 - 'Destiné à l'importation en ... (État membre importateur) — Règlement (CEE) n° 3154/85,'
 - 'Destinato all'importazione in ... (Stato membro importatore) — regolamento (CEE) n. 3154/85,'
 - 'Bestemd voor invoer in ... (invoerende Lid-Staat) — Verordening (EEG) nr. 3154/85.'
- 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':
 - Monetært udligningsbeløb ikke ydet,
 - Währungsausgleichsbetrag nicht gewährt,
 - Δεν χορηγήθηκε νομισματικό εξισωτικό ποσό,
 - Monetary compensatory amount not granted,
 - 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.

⁽¹⁾ OJ No L 62, 7. 3. 1980, p. 5.

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 producing supporting documents. These supporting documents shall include a copy or photocopy, certified by the competent authorities, of the import entry in the Member State of destination.

In such cases the competent office of the Member State of destination shall include on the copy of the import entry the same information as that found in 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 concerned and the compensatory amount claimed.

7. By way of derogation from paragraph 1, and as regards products for which no monetary compensatory amounts are applicable when customs export formalities are completed but for which an amount is applicable at the moment when the products are imported, payment by the exporting Member State shall 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 either in advance or retroactively by the customs office of departure and used in accordance with 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 appropriate any relevant attached documents giving the particulars referred to in Article 6 and stating that the products have been imported. The copy of the entry shall also indicate the day on which it 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, either the declaration shall bear the endorsement provided for in Article 11 (1) or proof shall be furnished that the products have:

- (a) left the territory of the exporting Member State,
- or
- (b) reached one of the destinations referred to in Articles 5 or 19 b 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, that Article shall also apply *mutatis mutandis* to positive monetary compensatory amounts.

4. The arrangements for victualling warehouses laid down in Article 26 of Regulation (EEC) No 2730/79 shall apply to positive monetary compensatory amounts to be granted. 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 for 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 started concerning the entitlement to the monetary compensatory amounts. In such cases payment shall be made only when the entitlement to the monetary compensatory amounts is found to exist.

TITLE III

EXEMPTIONS

Article 18

1. No monetary compensatory amounts shall be granted on imports of products not covered by Article 9 (2) of the Treaty in any of the cases covered by Chapter I of Council Regulation (EEC) No 918/83 ⁽¹⁾.

2. Where products covered by Article 9 (2) of the Treaty are exported to, or imported from, another Member State, monetary compensatory amounts shall not be applied to operations which fulfil the conditions set out in Chapter I of Regulation (EEC) No 918/83.

3. No monetary compensatory amounts shall be granted on exports to non-member countries in any of the cases covered by Chapter II of Regulation (EEC) No 918/83.

In addition, no monetary compensatory amounts shall be applied to exports to non-member countries of:

- (a) small consignments of non-commercial character. The conditions of application of this exemption shall be those laid down in Articles 29, 30 and 31 of the said Regulation;
- (b) products carried in travellers' personal luggage. The conditions of application of this exemption shall be those laid down in Articles 45 to 49 of the said Regulation;
- (c) products for examination, analysis or test purposes. The conditions of application of this exemption shall be those laid down in Articles 100, 102 and 103 of the said Regulation.

4. For the purposes of paragraphs 2 and 3, the limits on the concession for consignments of negligible value, for small consignments of a non-commercial character and for products carried in travellers' personal luggage shall be those set out in Council Directives 83/181/EEC ⁽²⁾, 74/651/EEC and 69/169/EEC, respectively.

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.

5. For the purposes of paragraph 2, the document establishing the Community nature of a product being

exported to another Member State shall contain in the 'description of goods' box one of the following:

- 'fritaget for monetære udligningsbeløb, jf. artikel 18 i forordning (EØF) nr. 3154/85',
- 'WAB-Befreiung — Artikel 18 der Verordnung (EWG) Nr. 3154/85',
- 'απαλλαγή ΝΕΠ — άρθρο 18 του κανονισμού (ΕΟΚ) αριθ. 3154/85',
- 'exempt from MCA — Article 18 of Regulation (EEC) No 3154/85',
- 'franchise MCM — article 18 du règlement (CEE) n° 3154/85',
- 'franchigia ICM — articolo 18 del regolamento (CEE) n. 3154/85',
- 'vrijstelling MCB — artikel 18 van Verordening (EEG) nr. 3154/85',

6. Where paragraph 2 is applied to imports into a Member State, the competent authorities of the importing Member State shall inform the authorities of the exporting Member State of:

- cases in which the document establishing the Community nature of the product does not include the entry required under paragraph 5,
- cases in which checks under Title XVI and Title XX (C) of Chapter I of Regulation (EEC) No 918/83 show that the conditions for the non-application of monetary compensatory amounts have not been fulfilled.

Checks to be carried out in the Member State of destination in the cases covered by Chapter I of Regulation (EEC) No 918/83, apart from those referred to in the first subparagraph, shall not apply to exports to another Member State.

The competent authorities in the exporting Member State shall decide in all such cases which supporting information is to be produced by the exporter.

7. For the purposes of this Article, the total value of the consignments in question shall be ascertained by taking into account only products which are subject to monetary compensatory amounts.

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,
- (c) one on the destinations referred to in Article 19b of Regulation (EEC) No 2730/79,

provided that no export refund is requested.

⁽¹⁾ OJ No L 105, 23. 4. 1983, p. 1.

⁽²⁾ OJ No L 105, 23. 4. 1983, p. 38.

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.

3. (a) For the purposes of paragraph 1, if a product for which customs export formalities have been completed crosses the territory of a Member State other than that where the formalities were completed before reaching the destination specified, evidence that the product has reached the intended destination shall be given by producing Control Copy T No 5, issued and used in accordance with Regulation (EEC) No 223/77 and this Regulation.

- (b) In the cases referred to in paragraph 1 (a) and (b) boxes 101 and 103 of the control copy shall be completed; box 104 shall be completed by striking out the first indent and adding one of the following phrases to the second indent.

- Levering til proviantering — forordning (EØF) nr. 3154/85',
- 'Lieferung zur Bevorratung — Verordnung (EWG) Nr. 3154/85',
- 'Προμήθεια για τροφοδοσία — κανονισμός (ΕΟΚ) αριθ. 3154/85',
- 'Supply for victualling — Regulation (EEC) No 3154/85',
- 'Livraison pour l'avitaillement — règlement (CEE) n° 3154/85',
- 'Fornitura per approvvigionamento di bordo — regolamento (CEE) n. 3154/85',
- 'Levering voor bevoorrading — Verordening (EEG) nr. 3154/85'.

- (c) For deliveries to platforms, boxes 101 and 103 of the control copy shall be completed; box 104 shall be completed by striking out the first indent and adding one of the following phrases to the second indent:

- 'Proviant til platforme (forordning (EØF) nr. 3154/85)',
- 'Bevorratungslieferung für Plattformen (Verordnung (EWG) Nr. 3154/85)',

- 'Προμήθειες τροφοδοσίας για εξέδρες — κανονισμός (ΕΟΚ) αριθ. 3154/85',
- 'Catering supplies for platform (Regulation (EEC) No 3154/85)',
- 'Livraison pour l'avitaillement des plates-formes (règlement (CEE) n° 3154/85)',
- 'Provviste di bordo per piattaforma (regolamento (CEE) n. 3154/85)',
- 'Leverantie voor boordproviand aan platform (Verordening (EEG) nr. 3154/85)'.

- (d) Where paragraph 1 (c) applies, the party concerned shall provide the proof of delivery on board under the conditions set out in Article 19 b of Regulation (EEC) No 2730/79.

4. Where, owing to circumstances beyond the control of the exporter, the control copy is not returned to the customs office of departure or the relevant central body within three months of its issue, the exporter may ask the competent agency to accept other documents as equivalent, stating the grounds for the request and producing documentary evidence in support. These supporting documents shall include confirmation by the customs office responsible for checking the destination in question that the intended destination has been reached.

Article 20

Member States are authorized not to grant or levy monetary compensatory amounts on products declared at the same time both for import and for re-export where the monetary compensatory amounts are the same in both cases, provided that this does not bring about an unjustified advantage or disadvantage in terms of the application of the monetary compensatory amounts system. Where the authorization is used, the Member States shall ensure that no monetary compensatory amount is applied.

Article 21

1. Not monetary compensatory amount shall be applicable in respect of the following transactions concerning products supplied as part 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 as part of food-aid programmes carried out by humanitarian organizations provided that such organizations have been approved in accordance with the procedure laid down in Article 12 of Regulation (EEC) No 1677/85.

TITLE IV

COMMON PROVISIONS

Article 22

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

2. The following rules 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 this Regulation,
- Regulation (EEC) No 1697/79,
- Directive 79/623/EEC.

TITLE V

SPECIAL PROCEDURES

Article 23

1. Without prejudice to Article 16, the competent authorities may make the application of monetary compensatory amounts to trade in frontier areas 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 10 of Regulation (EEC) No 1677/85 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 given that the conditions referred to in paragraph 1 have been fulfilled.

3. The Member States concerned shall inform the Commission, which shall in turn inform the other Member States, when measures are taken to implement paragraphs 1 and 2.

Article 24

For the purposes of this Regulation, Belgium and Luxembourg (BLEU) shall be treated as a single Member State.

Article 25

1. This Article lays down provisions for applying monetary compensatory amounts to products for which an application for repayment or remission of import

duties has been submitted in accordance with Regulation (EEC) No 1430/79 and where the repayment or remission is conditional upon either the re-export 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 competent 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-export:

- (a) no monetary compensatory amount shall be applied on re-export if the customs export formalities are completed in the Member State from which the products were originally imported;
- (b) monetary compensatory amounts shall be applied on re-export 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 there is an application to destroy products which at the time of release into 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 into 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 the 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 repayments of the amount levied to be made to the person concerned.

Article 26

Where Article 23 of Regulation (EEC) No 1430/79 is applied and the other provisions of that Regulation are complied with, 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 not exceeding six months,
- the competent authorities of each of the Member States concerned authorize the transactions in question.

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

5. For the purposes of paragraph 4, Member States shall use the 'Information document to facilitate the temporary exportation of goods sent from one country for manufacture, processing or repair in another' in accordance with Appendix I of Annex E.8 to Council Decision 77/415/EEC⁽¹⁾. In box C of the information document, headed 'Nature of proposed operations', the words 'Application of Article 27 of Regulation (EEC) No 3154/85' 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 in accordance with Article 27 involves

exemption from a monetary compensatory amount, the applicant shall 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 forfeited 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 period prescribed.

3. Where, in accordance with Article 27, the monetary compensatory amount has not been granted and the security referred to in paragraph 1 has been forfeited, 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 this paragraph is applied, the period referred to in Article 17 (2) shall start on the day on which the security is forfeited.

Article 29

Member States shall provide each other with all necessary information and assistance 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

No monetary compensatory amount shall be applied to goods being moved under the arrangements introduced by Regulation (EEC) No 3/84, provided that Article 11 (1) of that Regulation is observed.

Article 31

1. Additional Note 4 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 4 to Chapter 4,
- additional note 3 to Chapter 10, and
- additional note 3 to Chapter 11.

⁽¹⁾ OJ No L 166, 4. 7. 1977, p. 1.

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 the 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. For the calculation of monetary compensatory amounts applicable to sets each component shall be considered as a separate item.

5. Paragraphs 1 to 4 shall not apply to mixtures or sets for which a specific rule for calculation has been adopted.

Article 32

Regulation (EEC) No 1371/81 is hereby repealed.

Article 33

This Regulation shall enter into force on 1 January 1986.

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

Done at Brussels, 11 November 1985.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 3155/85

of 11 November 1985

providing for the advance fixing 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,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1985 on the common organization of the market in cereals ⁽²⁾, as last amended by Regulation (EEC) No 1018/84 ⁽³⁾, and in particular Article 12 (2), Article 15 (5) and Article 16 (6) thereof, and to the corresponding provisions in other regulations on the common organization of the markets in agricultural products,

Whereas Commission Regulation (EEC) No 1160/82 ⁽⁴⁾, as last amended by Regulation (EEC) No 469/85 ⁽⁵⁾, provides for the advance fixing of monetary compensatory amounts; whereas on 11 June 1985, the Council approved a coherent set of agrimonetary rules; whereas the rules applicable in this field should be consolidated, and certain changes made in the light of experience;

Whereas the advance fixing of any amount, and in particular of monetary compensatory amounts, may give rise to speculation; whereas the action taken must therefore be cautious and this facility should be introduced only for monetary compensatory amounts paid or charged on trade with non-member countries and for products for which the levy, or, where appropriate, the refund, can also be fixed in advance; whereas the economic justification for advance fixing, namely the degree of certainty that traders require, means that the advance fixing of the monetary compensatory amounts should be allowed only where the levy or the refund has been fixed in advance for the same operation;

Whereas it follows that a compensatory amount fixed in advance should be valid for the same period of time as the levy or refund to which it is linked;

Whereas the different trends of monetary compensatory amounts in the various Member States may encourage speculation; whereas when an application is made for advance fixing of monetary compensatory amounts the certificate to which this application relates must be valid only in the territory of the Member State indicated by the applicant when he applies for advance fixing:

Whereas, in trade with non-member countries, monetary compensatory amounts have two components, the amount fixed for the Member State and the relevant product in national currency, and the monetary coefficient applying to the levy or refund;

Whereas price changes in national currency may occur while certificates fixing the monetary compensatory amount in advance are valid, either because of an adjustment to the agricultural conversion rate or because of a change in the Community price expressed in ECU; whereas the possibility of allowing for this by adjustment of the amounts fixed in advance must be provided for;

Whereas fixing monetary compensatory amounts in advance may encourage speculation when there are sharp exchange rate fluctuations; whereas the possibility of suspending, if necessary at short notice, the facility to fix monetary compensatory amounts in advance must therefore be provided for;

Whereas certificates fixing levies or refunds in advance which are applied for during periods when the advance fixing of monetary compensatory amounts is suspended should not include advance fixing of the monetary compensatory amount;

Whereas, in certain circumstances, it is economically justifiable to permit the parties concerned to fix the monetary compensatory amount in advance when this facility is again made available;

Whereas in certain cases the issue of import and export licences and certificates is subject to a waiting period; whereas it is not the purpose of the waiting period to take account of monetary changes; whereas, therefore, it is reasonable to exclude from the effects of suspension of advance fixing of monetary compensatory amounts all applications lodged before the suspension;

Whereas the difficulties which justify suspension of advance fixing of the monetary compensatory amount should not normally be such as to entail such suspension in cases where levies or refunds are fixed under a tendering procedure; whereas it should be provided that, unless particular measures are adopted, the possibility of advance-fixing the monetary compensatory amount in

⁽¹⁾ OJ No L 164, 24. 6. 1985, p. 6.

⁽²⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽³⁾ OJ No L 107, 19. 4. 1984, p. 1.

⁽⁴⁾ OJ No L 134, 15. 5. 1982, p. 22.

⁽⁵⁾ OJ No L 58, 26. 2. 1985, p. 5.

force on the last day for submission of tenders should remain available during a period of suspension; whereas this option should at all times be exercised by the party concerned when the tender is submitted;

Whereas certain technical problems arise in calculating the monetary compensatory amount for certain goods coming under Council Regulation (EEC) No 3033/80 of 11 November 1980 laying down trade arrangements applicable to certain goods resulting from the processing of agricultural products⁽¹⁾; whereas those amounts are calculated on the basis of the standard quantities of basic agricultural products, used for the purposes of calculating the import charge; whereas where the relevant amounts have been fixed in advance, they should be linked to the refund payable on the basic agricultural products exported in the form of the goods concerned; whereas these problems can be solved by using a flat-rate system under which the refund must be fixed in advance for the whole of one of the basic products;

Whereas Regulation (EEC) No 1160/82 and Commission Regulation (EEC) No 1516/78 of 30 June 1978 on adjustments to monetary compensatory amounts fixed in advance and repealing Regulation (EEC) No 651/78⁽²⁾ are replaced by 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

1. Monetary compensatory amounts in trade with non-member countries shall be fixed in advance only in accordance with this Regulation.

2. For the purposes of this Regulation, a monetary compensatory amount comprises the following components:

- (a) the amount detained, for the products in question, from the application of Annex I to the Regulations fixing the monetary compensatory amounts;
- (b) — the coefficient given in Annex II to the Regulations fixing the monetary compensatory amounts, and
— the agricultural conversion rate to be used to convert amounts set in ECU into national currency,

the two components in (b) being, for certain processed products, where appropriate, differentiated according to the agricultural basic products for which the export refund has been fixed in advance.

3. For the purposes of this Regulation, the supplies referred to in Article 5 and Article 19b of Commission Regulation (EEC) No 2730/79⁽³⁾ shall be treated as trade with non-member countries.

4. For the purposes of this Regulation, Belgium and Luxembourg (BLEU) shall be treated as a single Member State.

Article 2

1. A monetary compensatory amount shall be fixed in advance on application by the party concerned.

Monetary compensatory amounts may be fixed in advance only where the import or export levy or the export refund is fixed in advance on the relevant certificate.

Monetary compensatory amounts may not be fixed in advance in respect of products falling within subheading 04.02 B of the Common Customs Tariff unless the export refund is fixed in advance for all the constituent parts of the relevant product.

2. Levies or refunds fixed under a tendering procedure shall be deemed to have been fixed in advance.

3. Where the monetary compensatory amount is fixed in advance, the certificate shall be valid only in a single Member State to be designated by the applicant when he applies to have the monetary compensatory amount fixed in advance.

Article 3

1. An application for advance fixing of a monetary compensatory amount must be lodged at the same time as the application for the certificate of advance fixing of the levy or refund.

Where Article 5 (2) applies, an application for advance fixing of the monetary compensatory amount shall be accepted only if the party concerned has stated in writing when submitting the tender that he will also apply for advance fixing of the monetary compensatory amount if all or part of his tender is accepted. In this case, the requirement following acceptance of a tender to lodge an application for advance fixing of the levy or refund shall include a requirement to apply at the same time for advance fixing of the monetary compensatory amount.

⁽¹⁾ OJ No L 323, 29. 11. 1980, p. 1.

⁽²⁾ OJ No L 178, 1. 7. 1978, p. 63.

⁽³⁾ OJ No L 317, 12. 12. 1979, p. 1.

2. In all cases:

(a) box 12 of both the application for the certificate and the certificate itself shall include one of the following entries:

- 'Forudfastættelse af det monetære udligningsbeløb',
- 'Vorausfestsetzung des Währungsausgleichsbetrags',
- 'Προκαθορισμός του νομισματικού εξισωτικού ποσού',
- 'Advance fixing of the monetary compensatory amount',
- 'fixation à l'avance du montant compensatoire monétaire',
- 'Fissazione anticipata dell'importo compensativo monetario',
- 'Vaststelling vooraf van het monetaire compenserende bedrag',

(b) box 20a of the certificate in the case of imports, and box 18a in the case of exports, shall include one of the following entries:

- 'Monetært udligningsløb forudfastsat den ... (dato for forudfastsættelsen) justeres i påkommende tilfælde;
Licens gyldig i ... (den medlemsstat, der er angivet af ansøgeren)'.
- 'Am ... (Vorausfestsetzungsdatum) im voraus festgesetzter Währungsausgleichsbetrag; muß gegebenenfalls angepaßt werden;
Lizenz gilt in ... (vom Antragssteller angegebener Mitgliedstaat)'.
- 'Νομισματικό εξισωτικό ποσό προκαθορισθέν την ... (ημερομηνία προκαθορισμού ενδεχομένως προσαρμοστέα).
Πιστοποιητικό ισχύον στο ... (κράτος μέλος υποδεικνυόμενο από τον αιτούντα)'.
- 'Monetary compensatory amount fixed in advance on ... (date of advance fixing), to be adjusted as appropriate;
certificate valid in ... (Member State designated by the applicant)'.
- 'Montant compensatoire monétaire fixé à l'avance le ... (date de préfixation), à ajuster éventuellement;
certificat valable en ... (Etat membre désigné par le demandeur)'.
- 'Importo compensativo monetario fissato in anticipo il ... (data della fissazione anticipata), da modificarsi se del caso;
Titolo valido in ... (Stato membro designato dal richiedente)'.
- 'Monetair compenserend bedrag vooraf vastgesteld op ... (datum van de vaststelling vooraf), eventueel aan te passen;
Certificaat geldig in ... (door de aanvrager aangegeven Lid-Staat)'.

3. On certificates to be used in their territories the competent authorities in the Member States may also, for information purposes, enter in box 20a of the import or advance fixing certificate, or, where appropriate, in box 18a of the export or advance fixing certificate, additional data for the calculation of the monetary compensatory amounts.

Article 4

1. Where a certificate of advance fixing of the refund relates to a basic product exported in the form of goods covered by Regulation (EEC) No 3033/80 and fixes the monetary compensatory amount in advance, this advance fixing shall relate to the monetary compensatory amount applicable to these goods.

However, in such cases, the agricultural conversion rate and the monetary coefficient which are also fixed in advance shall be those valid for each basic product incorporated in the relevant goods.

2. The monetary compensatory amount may be fixed in advance in respect of such goods only if the total quantity of at least one of the basic products eligible for the export refund is covered by one or more of the certificates referred to in paragraph 1.

Only basic products accounting for at least 10 % of the weight of the goods shall be taken into account for the purposes of the first subparagraph.

3. Where more than one of the certificates referred to in paragraph 1 are presented when the goods are cleared through customs, only the first certificate issued shall count for the purposes of determining the date to be used for calculating the monetary compensatory amount.

Only certificates relating to the basic product or products whose total quantity is covered shall be taken into account for the purposes of the first subparagraph.

4. Where one or more of the certificates referred to in paragraph 1 are presented for the export of goods and because the conditions referred to in paragraph 2 are not met these goods do not qualify for the monetary compensatory amount fixed in advance then the certificate or certificates shall not be accepted by the competent authorities.

Article 5

1. The monetary compensatory amount in force on the day on which the application for advance fixing of the monetary compensatory amount is lodged shall be applicable to operations carried out during the period of validity of the certificate.

2. However, where a tendering procedure fixes the levy or refund in advance, the monetary compensatory amount applicable shall be that in force on the last day

for submission of tenders. For the purpose of the adjustments referred to in Article 6, the application for advance fixing of the monetary compensatory amount shall be deemed to have been lodged on the last day for submission of tenders.

Article 6

1. Monetary compensatory amounts fixed in advance shall be adjusted if a new agricultural conversion rate which was publicly announced before an application for advance fixing was lodged comes into effect.

The publication of a press release by the body responsible for the alteration of the relevant agricultural conversion rate shall be deemed to be a public announcement. The date of publication of the press release in question shall be published by the Commission in the *Official Journal of the European Communities*.

A date different from that announced in the press release may be fixed in accordance with the procedure laid down in Article 12 of Regulation (EEC) No 1677/85.

2. The adjustments referred to in paragraph 1 shall be made on the basis of the agricultural conversion rate

— applicable at the time of completion of customs formalities on import or export,

and,

— which was publicly announced before application for advance fixing of the monetary compensatory amount was lodged.

3. The amounts of the adjustments provided for in paragraphs 1 and 2 shall be fixed in accordance with the procedure for fixing monetary compensatory amounts.

4. As regards goods coming under Regulation (EEC) No 3033/80, monetary compensatory amounts fixed in advance shall be adjusted in accordance with the rules for adjusting the monetary compensatory amount applicable to the basic product covered by the advance fixing certificate which is taken into account for the purposes of determining the date of advance fixing.

5. Where, in accordance with Article 3 (3), a rate in national currency is entered on the certificate and must be adjusted, the competent departments of the Member States shall take such administrative action as they deem necessary to ensure such adjustment. This may include provision for additional entries on the certificates.

Article 7

1. Monetary compensatory amounts fixed in advance shall be adjusted for products falling within the cereals, sugar or milk and milk products sectors where, following a change in prices expressed in ECU, adjustments to

levies, or, where appropriate, refunds fixed in advance are applicable in respect of those products.

2. For the purposes of this Regulation, the monthly increases in cereals prices shall not be treated as adjustments to levies or refunds fixed in advance.

3. No adjustment shall be made for goods coming under Regulation (EEC) No 3033/80.

4. The detailed rules applicable to adjustments, and the adjustments themselves, shall be decided in accordance with the procedure laid down in Article 12 of Regulation (EEC) No 1677/85.

Article 8

1. Any adjustment to be made in accordance with Article 7 shall be made on the basis of the new common price and agricultural conversion rate valid at the time when the new common price takes effect.

2. The adjustment under Article 6 shall be altered where there is an adjustment under Article 7.

Article 9

1. Adjustments under Article 6 and 7 shall normally be made by applying one or more coefficients to the amount referred to in Article 1(2)(a).

2. When such an adjustment is made the components set out in Article 1(2)(b) shall be replaced by the coefficient given in Annex II to the Regulations fixing the MCA and the agricultural conversion rate valid on the day of completion of customs formalities for import or export.

Article 10

1. When monetary compensatory amounts are not fixed for one or more products in a Member State at a time when they are applied for this product or these products in another Member State, the monetary compensatory amount in the former Member State shall be deemed to be nil, and the monetary coefficient 1.

2. When monetary compensatory amounts are not fixed as regards one or more goods covered by Regulation (EEC) No 3033/80, the monetary compensatory amount shall be deemed to be nil, and the monetary coefficient 1.

3. In the cases referred to in paragraphs 1 and 2, operators may apply to fix the monetary compensatory amount in advance in accordance with this Regulation.

Article 11

1. Where a review of the monetary or market situation reveals difficulties arising from the application of the rules concerning advance fixing of monetary

compensatory amounts or where such difficulties are liable to arise, a decision may be taken to suspend these rules for the relevant product or products.

2. In extremely urgent cases, the Commission may, after a review of the situation on the basis of all the available information, decide to suspend the advance fixing of monetary compensatory amounts for a maximum of three working days.

3. Advance fixing of the monetary compensatory amounts shall not be suspended where a levy or a refund is fixed under a tendering procedure, unless the Regulation providing for such suspension stipulates that this paragraph shall not apply.

4. During the period when advance fixing of the monetary compensatory amounts is suspended applications for the advance fixing of monetary compensatory amounts in advance shall be inadmissible.

5. An application for the issue of a certificate, accompanied by an application for the advance fixing of the monetary compensatory amount, which was already received when advance fixing of monetary compensatory amounts was suspended, shall not be affected by the suspension decision.

6. Applications for certificates including advance fixing of the levy or the refund shall not be affected by paragraph 4.

Article 12

1. Where a monetary compensatory amount cannot be fixed in advance because of the rule laid down in Article 11 (4), an application for advance fixing of the monetary compensatory amount in a Member State subject to the suspension may be lodged during a period of seven days following the end of the suspension period.

The application for advance fixing of the monetary compensatory amount shall apply to the entire quantity remaining available as indicated on the certificate and all extracts from the certificate that may be issued. It shall be lodged with the same body with which the original application for a certificate was lodged. In lodging his application for advance fixing of the monetary

compensatory amount, the operator shall submit to the competent authority the original certificate and all extracts from it. The original certificate and all the extracts from the certificate shall be retained by that authority, which shall issue a replacement certificate and one or more replacement extracts, as appropriate.

Article 12, Article 13 (1), Article 14 and Article 15 of Commission Regulation (EEC) No 3183/80⁽¹⁾ shall apply to applications for the advance fixing of monetary compensatory amounts.

2. The substitute certificate or the substitute extract with advance fixing of the monetary compensatory amount shall be issued for a quantity of products which, plus the tolerance, corresponds to the quantity remaining available shown in the document which it replaces.

The replacement certificate or extract shall include any information and entries given on the document replaced. It shall also include the entries given in Article 3 (2) and a reference to the number of the original document. Article 3 (3) shall apply to replacement certificates or replacement extracts.

3. The monetary compensatory amount applicable on the day on which the application for advance fixing of the monetary compensatory amount was lodged shall apply to operations carried out during the remaining period of validity of the certificate.

Article 13

1. Regulations (EEC) No 1516/78 and No 1160/82 are hereby repealed.

2. Any reference, in Community instruments, to Regulation (EEC) No 1160/82 or to Articles of that Regulation shall be deemed to be a reference to this Regulation or to the corresponding Articles of this Regulation.

Article 14

This Regulation shall enter into force on 1 January 1986.

It shall apply to certificates applied for from 1 January 1986 onwards.

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 ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 338, 13. 12. 1980, p. 1.

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 Common 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:

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

Done at Brussels, 11 November 1985.

- the date of the change and the initial date,
- the products and the periods indicated in Annex I,
- the product movements and the corresponding 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.

For the Commission

Frans ANDRIESEN

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
<i>Exportation from a Member State</i>	<i>Products concerned</i>	<i>Destination</i>
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
<i>Importation into a Member State</i>	<i>Products concerned</i>	<i>Member State of provenance</i>
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
<i>Importation into a Member State</i>	<i>Products concerned</i>	<i>Provenance</i>
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 Type: _____ Number: _____ Customs office: _____ Date: <table border="1"><tr><td> </td><td> </td><td> </td></tr><tr><td>Day</td><td>Month</td><td>Year</td></tr></table>				Day	Month	Year	9 Export declaration (²) Type: _____ Number: _____ Customs office: _____ Date of acceptance: <table border="1"><tr><td> </td><td> </td><td> </td></tr><tr><td>Day</td><td>Month</td><td>Year</td></tr></table>				Day	Month	Year
Day	Month	Year											
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: <table border="1"><tr><td> </td><td> </td><td> </td></tr><tr><td>Day</td><td>Month</td><td>Year</td></tr></table>				Day	Month	Year		
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
