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(Acts whose publication is obligatory)

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

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Having regard to the opinion of the Court of Auditors,

Having regard to the opinion of the Monetary Committee,

Whereas Council Regulation (EEC) No 3180/78 of 18 December 1978 changing the value of the unit of account used by the European Monetary Cooperation Fund ⁽⁴⁾, as last amended by Regulation (EEC) No 2626/84 ⁽⁵⁾, and Council Regulation (EEC) No 3181/78 of 18 December 1978 relating to the European Monetary System ⁽⁶⁾, introduced the ECU; whereas this unit of account is defined as the value of the sum of specified amounts of the currencies of the Member States;

Whereas Council Regulation (EEC) No 652/79 of 29 March 1979 on the impact of the European Monetary System on the common agricultural policy ⁽⁷⁾, as last amended by Regulation (EEC) No 3657/84 ⁽⁸⁾, brought the ECU into use in the common agricultural policy;

Whereas a coherent set of provisions governing the agrimonetary field should be established; whereas the existing rules are no longer in line with practical circumstances and requirements; whereas accordingly:

— Council Regulation No 129 on the value of the unit of account and the exchange rates to be applied for the

purposes of the common agricultural policy ⁽⁹⁾, as last amended by Regulation (EEC) No 2543/73 ⁽¹⁰⁾,

— Council Regulation (EEC) No 653/68 of 30 May 1968 on conditions for alterations to the value of the unit of account used for the common agricultural policy ⁽¹¹⁾, and

— Council Regulation (EEC) No 1134/68 of 30 July 1968 laying down rules for the implementation of Regulation (EEC) No 653/68 on conditions for alterations to the value of the unit of account used for the common agricultural policy ⁽¹²⁾,

should be repealed and replaced by provisions which take account both of the existence of the ECU and of changes dictated by experience;

Whereas provisions are required governing the exchange rates between the ECU and the national currencies to be used in connection with the common agricultural policy; whereas for data relating to the world market, the market rate, or, where appropriate, the central rate for the ECU can normally be taken as basis; whereas, on the other hand, for Community data, reference should normally be made to the central rates in the European Monetary System or to the special agricultural conversion rates in order to ensure the maintenance of given price levels in the national currencies; whereas, in this connection, it is none the less necessary to establish a system harmonizing with the method of calculation of the monetary compensatory amounts and to take account of the correcting factor affecting, where appropriate, the central rates;

Whereas the method of fixing the agricultural conversion rates and the consequences thereof should be determined in general terms, having due regard to the impact of these rates on the levels, when expressed in national currencies, of the prices and other amounts fixed under the common agricultural policy and on the levels of the monetary compensatory amounts;

Whereas changes, within the European Monetary System, in the central rates of the Member States' currencies and in the correcting factor applied, where appropriate, to them for the

⁽¹⁾ OJ No C 21, 23. 1. 1985, p. 10.

⁽²⁾ OJ No C 97, 21. 4. 1980, p. 44.

⁽³⁾ OJ No C 182, 21. 7. 1980, p. 41.

⁽⁴⁾ OJ No L 379, 30. 12. 1978, p. 1.

⁽⁵⁾ OJ No L 247, 16. 9. 1984, p. 1.

⁽⁶⁾ OJ No L 379, 30. 12. 1978, p. 2.

⁽⁷⁾ OJ No L 84, 4. 4. 1979, p. 1.

⁽⁸⁾ OJ No L 340, 28. 12. 1984, p. 9.

⁽⁹⁾ OJ No 106, 30. 10. 1962, p. 2553/62.

⁽¹⁰⁾ OJ No L 263, 19. 9. 1973, p. 1.

⁽¹¹⁾ OJ No L 123, 31. 5. 1968, p. 4.

⁽¹²⁾ OJ No L 188, 1. 8. 1968, p. 1.

calculation of the monetary compensatory amounts will have an impact on the relationship between the national currencies and the ECU; whereas, accordingly, there will be *inter alia* a change in the relationship between the ECU and the rates agreed for the calculation of world market data; whereas there is therefore a need to provide for the possibility of prompt alteration of the factors on which the system of trade with non-member countries in agricultural products is based;

Whereas special rules should be laid down for dealing with exceptional situations arising either within the Community or on the world market and requiring immediate action to ensure that the schemes established under the common agricultural policy operate effectively;

Whereas this Regulation does not affect the validity of Council Regulation (EEC) No 129/78 of 24 January 1978 concerning the exchange rates to be applied in the framework of the common policy for agricultural structures ⁽¹⁾,

HAS ADOPTED THIS REGULATION:

TITLE I

Conversion rates

Article 1

1. The unit of account used in the legal instruments relating to the common agricultural policy shall be the ECU as defined by Regulation (EEC) No 3180/78.

2. For the purposes of this Regulation 'legal instruments relating to the common agricultural policy' shall mean:

- (a) legal instruments based directly or indirectly on Article 43 of the Treaty, with the exception of the Common Customs Tariff and other legal instruments of customs legislation applicable to both agricultural products and industrial products;
- (b) legal instruments applicable to goods processed from agricultural products and subject to specific trade arrangements.

3. The Council, acting by a qualified majority on a proposal from the Commission, may decide that amounts given in the Common Customs Tariff relating to agricultural products or to goods referred to in paragraph 2 (b) shall be converted into national currencies at the agricultural conversion rates.

Article 2

1. In legal instruments relating to the common agricultural policy, the agricultural conversion rates shall apply for the conversion:

- (a) into ECU of amounts expressed in the national currency of a Member State;
- (b) into the national currency of a Member State of amounts expressed in ECU;
- (c) into the national currency of a Member State of amounts expressed in the national currency of another Member State.

2. The agricultural conversion rate for a currency shall normally be the central rate fixed for that currency *vis-à-vis* the ECU. However, a different agricultural conversion rate may be fixed.

For as long as a correcting factor is applicable for the calculation of the monetary compensatory amounts under Article 6 (2) of Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture ⁽²⁾, the central rates referred to in the first subparagraph shall be the central rates multiplied by the correcting factor.

3. The agricultural conversion rates shall be fixed by the Council, acting by a qualified majority on a proposal from the Commission.

4. Derogation may be made from the agricultural conversion rate in accordance with the procedure laid down in Article 10 (2), to permit the use of conversion rates corresponding more closely to actual economic circumstances, if this proves necessary, with a view to the comparability of certain data, particularly in the context of invitations to tender.

Article 3

1. Notwithstanding Article 2, the conversion

- (a) into ECU
 - of amounts expressed in the national currency of a Member State relating to world market data,
 - of amounts expressed in the national currency of a non-member country,
- (b) into the national currency of a non-member country of amounts expressed in ECU,

shall be effected, in legal instruments relating to the common agricultural policy:

- for the currencies of the Member States which maintain their currencies as between themselves within a spread at any given time of a maximum of 2,25 %, by reference to the central rate,
- for the other currencies, on the basis of an average of the rates obtained from the relationship between the average spot market rates for the currency concerned in relation

⁽¹⁾ OJ No L 20, 25. 1. 1978, p. 16.

⁽²⁾ See page 6 of this Official Journal.

to each of the currencies of the Member States referred to in the first indent, as recorded over a period to be determined, and the central rate or each of these currencies.

However, for as long as a correcting factor is applicable for the calculation of the monetary compensatory amounts under Article 6 (2) of Regulation (EEC) No 1677/85, the conversion rates referred to in the first subparagraph shall be established by reference not to the central rates but to the central rates multiplied by the correcting factor.

2. Derogation may be made from paragraph 1, in accordance with the procedure laid down in Article 10 (2), in the event of major currency fluctuations, in order to ensure closer alignment to actual economic circumstances.

TITLE II

Adjustment of amounts

Article 4

Alterations of agricultural conversion rates shall apply to all amounts in respect of which the operative event occurs after the alteration has taken effect. In such case, the amounts referred to in Articles 6 and 7 shall be adjusted by reference to the agricultural conversion rate applicable when the operative event for the relevant operation occurs.

Article 5

1. 'Operative event' shall mean:

- (a) as regards the amounts charged or granted in trade, the completion of customs import or export formalities;
- (b) as regards the amounts indicated in contracts, the conclusion of the contract;
- (c) in all other cases, the event whereby the economic objective of the operation is attained.

2. However, an operative event other than those referred to in paragraph 1 may be taken if the time at which the economic objective is attained:

- (a) cannot be established,
or
- (b) for reasons peculiar to the relevant sector or amount, cannot be taken into consideration.

3. Operative events shall be determined in accordance with the procedure laid down in Article 12 without prejudice to the specific provisions already adopted under that procedure.

Article 6

1. In accordance with Article 4, amounts shall be adjusted if they satisfy the following conditions:

- (a) they are expressed in national currency in documents, certificates or licences drawn up in application of legal instruments relating to the common agricultural policy;
- (b) they are either:
 - fixed in ECU in the instruments referred to in (a),
or
 - established following a tendering procedure opened under such instruments and fixing a maximum or minimum amount in ECU;
- (c) they have been fixed in advance or, in cases where conclusion of a contract would not be considered the operative event, they appear in a contract concluded with an intervention agency.

2. The adjustments referred to in this Article shall be made by Member States. They shall relate to any operation, or part of an operation, in respect of which the operative event has not yet occurred.

3. Where the adjustment leads to a disadvantage to the detriment of an interested party qualifying for advanced fixing, he may, upon written application, obtain the cancellation of the advance fixing and of the certificate or document certifying it.

The application must reach the competent authority within 30 days of the entry into force of the adjustments.

It may be decided prior to the date on which the change in the agricultural conversion rate takes effect that the disadvantage is to be offset by an appropriate measure. In such case, the cancellation referred to in the first subparagraph may not be granted.

4. For the purposes of this Regulation, a disadvantage shall be held to occur when, as a result of applying the new agricultural conversion rate, the amounts applicable to the operation concerned are such that:

- the net amount to be charged is higher,
or
- the net amount to be granted is lower

than it would have been had the said rate not entered into force.

Article 7

1. In accordance with Article 4, amounts shall be adjusted if they satisfy the following conditions:

- (a) they have been fixed in ECU in a Community instrument;

- (b) they are expressed in national currency in contracts concluded between private parties and compliance with these amounts, in the contracts in question, is compulsory under Community provisions.

2. The adjustment shall relate to the contracts referred to in paragraph 1 in so far as is necessary for compliance with Community provisions.

Article 8

1. Where the correcting factor referred to for the calculation of the monetary compensatory amounts is changed and where measures adopted under the European Monetary System or by a non-member country entail an abrupt and appreciable change in the rates of conversion between the ECU and the currencies concerned:

(a) the following amounts:

- import duties, except customs duties,
- export duties,
- export refunds,
- sluice-gate prices,
- aids fixed on the basis of world market data,
- import subsidies,

shall, as necessary, be calculated and fixed anew promptly by the Commission in accordance with the methods applicable in each case, using the new conversion rate;

(b) the amounts listed under (a) may also be adjusted, in accordance with the normal procedure, before the date specified for their periodic review wherever market changes so require.

2. Where paragraph 1 (a) is applied, those amounts referred to therein which:

- have been fixed in advance
- and
- remained, for an operation or part of an operation, to be realized after the change in the conversion rate,

shall be calculated and fixed anew, as necessary, by the Commission, in accordance with the said paragraph.

In such cases, Article 6 (3) and (4) shall apply.

Article 9

1. Where one or more agricultural conversion rates are revalued, the amounts fixed in ECU and not connected with the fixing of prices may be increased in accordance with the procedure laid down in Article 12.

2. As regards the amounts which Member States determine within maximum and minimum limits, the increase shall apply to the maximum and minimum amounts.

As concerns the maximum limit, the increase may not exceed the amount necessary to avoid any reduction in national currency of the amounts actually applied in the Member State in which revaluation has the greatest effect on these amounts.

As concerns the minimum limit, paragraph 3 shall apply.

3. With regard to the amounts referred to in paragraph 1 other than those referred to in paragraph 2, the increase may not exceed the amount necessary to avoid a reduction in national currency of the amounts in question in the Member State whose currency has undergone the greatest revaluation.

TITLE III

General provisions

Article 10

1. Where monetary practices of an exceptional nature are likely to jeopardize the implementation of the legal instruments relating to the common agricultural policy, the Council, acting in accordance with the procedure laid down in Article 43 of the Treaty, may adopt any appropriate measures, where necessary by way of derogation from existing legal instruments relating to the common agricultural policy.

If it is not possible to consult the European Parliament because of the urgency of the measures to be adopted, such measures may be adopted by the Council, acting by a qualified majority on a proposal from the Commission. The measures thus adopted shall be provisional and shall not become permanent until adopted in accordance with the procedure laid down in the first subparagraph.

2. Where monetary practices of an exceptional nature are likely to jeopardize the implementation of the instruments or provisions referred to in Article 1, the Council, acting by a qualified majority on a proposal from the Commission, or the Commission, acting within its powers under such legal instruments or provisions for each individual case, may make derogations from this Regulation, in particular in the following cases:

- (a) when a country uses abnormal currency exchange techniques such as multiple exchange rates or operates a barter agreement;
- (b) in the case of countries whose currencies are not quoted on official foreign exchange markets.

Article 11

1. The Monetary Committee shall be consulted on the fixing of the agricultural conversion rates and all measures adopted under Article 10.

2.. In emergencies, the matter shall be referred to the Monetary Committee, even if the Committee cannot be consulted before a decision is taken. In such cases, the measures provided for in the decision shall apply provisionally and shall become final only when the Committee has given an opinion. Where the Committee's opinion is negative, the competent institution shall adopt final measures; the provisional measures shall remain applicable until the entry into force of this new decision.

Article 12

1. Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down:

(a) in Article 26 of Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EEC) No 1018/84 ⁽²⁾;

or

(b) in the corresponding Articles of the other Regulations on the common organizations of agricultural markets;

or

(c) in Article 18 of Directive 72/159/EEC ⁽³⁾, as last amended by Directive 82/436/EEC ⁽⁴⁾;

or

(d) in the corresponding Articles of other Community provisions establishing similar procedures.

2. To the extent and for the period strictly necessary in order to take account of this Regulation, these detailed rules may derogate from the rules for fixing the agricultural conversion rates.

Article 13

The amounts fixed in units of account (UA) for the application of the common agricultural policy or the special exchange arrangements for goods resulting from the processing of agricultural products shall be expressed in ECU with the aid of a coefficient of 1,208953.

Article 14

Regulation No 129 and Regulations (EEC) No 653/68, (EEC) No 1134/68 and (EEC) No 652/79 are hereby repealed.

Article 15

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

It shall apply from 1 January 1986.

2. Article 1 (1) shall be valid until 31 March 1987.

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

Done at Luxembourg, 11 June 1985.

For the Council

The President

F. M. PANDOLFI

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 107, 19. 4. 1984, p. 1.

⁽³⁾ OJ No L 96, 23. 4. 1972, p. 1.

⁽⁴⁾ OJ No L 193, 3. 7. 1982, p. 37.