

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)',
- 'Bevorrattungslieferung 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 plateformes (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
