

## COMMISSION REGULATION (EEC) No 3819/92

of 28 December 1992

## on detailed rules for determining and applying the agricultural conversion rates

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy<sup>(1)</sup>, and in particular Articles 1 (c), 3 (3) 5 (3) and 10 thereof,

Whereas the representative market rates defined in Article 1 of Regulation (EEC) No 3813/92 are used to convert amounts expressed in the national currencies of third countries and form the basis for fixing the agricultural conversion rates for Member States' currencies; whereas it is necessary to define the rules for their calculation in respect of floating currencies and in particular in respect of third countries' currencies whose value in ecus is not published in the *Official Journal of the European Communities*;

Whereas it is appropriate for the representative market rates to be adjusted systematically after each 10-day period; whereas, in order to facilitate information to operators and to avoid the risks of market distortion, the representative market rates should be adjusted on fixed dates immediately following the end of each reference period; whereas, however, in the event of major currency fluctuations the representative market rates need to be established quickly on the basis of a brief reference period;

Whereas, in order to guarantee a uniform approach throughout the Community and to simplify administration of trade arrangements, the rates fixed by Commission Regulation (EEC) No 1766/85 of 27 June 1985 on the rates of exchange to be used in the determination of customs value<sup>(2)</sup>, as last amended by Regulation (EEC) No 593/91<sup>(3)</sup>, should be used by Member States to convert amounts expressed in third countries' currencies directly into their own national currency;

Whereas the agricultural conversion rate should be applicable as quickly as possible after the reference period on the basis of which it is calculated in order to avoid risks

of market distortion or economically unjustified profits whereas as the agricultural conversion rate applicable at the beginning of a month should be adjusted in order to take account of the development of the representative market rate in the event of major currency fluctuations;

Whereas data on the world market must be established in ecus at frequent intervals and with a high degree of accuracy; whereas in respect of those data expressed in the national currencies of Member States a specific agricultural conversion rate equal to the representative market rate should be used;

Whereas pursuant to the second subparagraph of Article 6 (1) of Regulation (EEC) No 3813/92, a strict relationship needs to be established between an application for advance fixing of the agricultural conversion rate and the amount in question expressed in ecus; whereas, to avoid speculation, the validity of certificates including advance fixing of the agricultural conversion rate must be restricted to the Member State designated by the applicant;

Whereas, for composite products and in particular the goods covered by Council Regulation (EEC) No 3035/80 of 11 November 1980 laying down general rules or granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and the criteria for fixing the amount of such refunds<sup>(4)</sup>, as last amended by Regulation (EEC) No 3381/90<sup>(5)</sup>, advance fixing of the amounts concerned in ecus must involve a significant proportion of the basic agricultural products so that the agricultural conversion rate can be fixed in advance;

Whereas it is necessary to indicate in the different languages of the Community the entries to be included on the appropriate documents in order to indicate that the agricultural conversion rate has been fixed in advance;

Whereas determining the agricultural conversion rate of floating currencies is done on the basis of very precise rules which allow the outcome to be predicted to some extent before each advance fixing in question; whereas, to avoid speculation, an adjustment is required in the value of the agricultural conversion rate fixed in advance during the reference period and which brings about the adjustment in the said rate;

<sup>(1)</sup> See page 1 of this Official Journal.

<sup>(2)</sup> OJ No L 168, 26. 6. 1985, p. 21.

<sup>(3)</sup> OJ No L 66, 13. 3. 1991, p. 14.

<sup>(4)</sup> OJ No L 323, 29. 11. 1980, p. 27.

<sup>(5)</sup> OJ No L 327, 27. 11. 1990, p. 4.

Whereas Regulation (EEC) No 3813/92 provides for the necessity of not overstepping a permissible monetary gap in order to avoid significant market disturbance; whereas, as a consequence, it is necessary to adjust the advance fixing of an agricultural conversion rate which imply an important monetary gap with the rates in force;

Whereas fixing the agricultural conversion rate can result impossible speculation in cases where exchange rates fluctuate significantly; whereas it is therefore necessary to provide for a rapid procedure for the possible suspension of advance fixing where appropriate;

Whereas, in order to simplify the rules, the provisions of the first paragraph of Article 1 of Commission Regulation (EEC) No 653/92 on the unit of account and the conversion rate to be applied to tenders submitted in response to invitations to tender<sup>(1)</sup> should be incorporated into the present Regulation and that Regulation should be repealed;

Whereas it is necessary to indicate the rules for rounding off the values which are calculated of the conversion rates;

Whereas, in order to clarify the Community rules, the provisions on operation of the agri-monetary system applicable up to 31 December 1992 laid down by Regulation (EEC) No 3152/85<sup>(2)</sup>, as last amended by Regulation (EEC) No 3237/90<sup>(3)</sup>, Regulation (EEC) No 3153/85<sup>(4)</sup>, as last amended by Regulation (EEC) No 3672/89<sup>(5)</sup>, Regulation (EEC) No 3154/85<sup>(6)</sup>, as last amended by Regulation (EEC) No 1546/89<sup>(7)</sup>, Regulation (EEC) No 3155/85<sup>(8)</sup>, as last amended by Regulation (EEC) No 3247/89<sup>(9)</sup>, Regulation (EEC) No 3156/85<sup>(10)</sup>, as last amended by Regulation (EEC) No 3521/88<sup>(11)</sup>, Regulation (EEC) No 3578/88<sup>(12)</sup>, as last amended by Regulation (EEC) No 3137/91<sup>(13)</sup>, as well as Regulation (EEC) No 1641/91<sup>(14)</sup>, as last amended by Regulation (EEC) No 3756/92<sup>(15)</sup>, and Regulation (EEC) No 3757/92<sup>(16)</sup> should be repealed;

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

<sup>(1)</sup> OJ No L 70, 17. 3. 1992, p. 6.

<sup>(2)</sup> OJ No L 310, 21. 11. 1985, p. 1.

<sup>(3)</sup> OJ No L 310, 9. 11. 1990, p. 18.

<sup>(4)</sup> OJ No L 310, 21. 11. 1985, p. 4.

<sup>(5)</sup> OJ No L 358, 8. 12. 1989, p. 28.

<sup>(6)</sup> OJ No L 310, 21. 11. 1985, p. 9.

<sup>(7)</sup> OJ No L 151, 3. 6. 1989, p. 24.

<sup>(8)</sup> OJ No L 310, 21. 11. 1985, p. 22.

<sup>(9)</sup> OJ No L 314, 28. 10. 1989, p. 51.

<sup>(10)</sup> OJ No L 310, 21. 11. 1985, p. 27.

<sup>(11)</sup> OJ No L 307, 12. 11. 1988, p. 28.

<sup>(12)</sup> OJ No L 312, 17. 11. 1988, p. 16.

<sup>(13)</sup> OJ No L 297, 29. 10. 1991, p. 17.

<sup>(14)</sup> OJ No L 153, 17. 6. 1991, p. 1.

<sup>(15)</sup> OJ No L 382, 28. 12. 1992, p. 1.

<sup>(16)</sup> OJ No L 382, 28. 12. 1992, p. 45.

HAS ADOPTED THIS REGULATION:

## TITLE I

### Representative market rates

#### Article 1

1. The exchange rates from which representative market rates for floating currencies are established shall be the daily ecu rates published in the *Official Journal of the European Communities*, 'C' series.

2. Where the ecu rate for a third country's currency is not published in the *Official Journal of the European Communities* the representative market rate for that currency shall be established taking account of exchange rates reflecting as effectively as possible the current value of the currency in question in commercial transaction.

#### Article 2

1. The representative market rate for a floating currency shall be calculated on the basis of basic reference periods. Basic reference periods shall be understood to mean periods running from the first to the 10th, the 11th to the 20th and the 21st to the last day of each month, reduced where applicable in accordance with paragraph 2.

However, the last basic reference period in each year shall be 21 to 30 December.

2. Notwithstanding paragraph 1, in cases where the absolute value of the difference between the monetary gaps in two Member States, calculated from the average on the ecu rates for three consecutive working days, exceeds six points:

- the representative market rates for the currencies in question shall be adjusted on the basis of the three working days in question, and
- the basic reference period concerned begins the day following these three working days; the end of the period is not affected.

#### Article 3

The representative market rate shall be used from the day following the period on the basis of which it was calculated until the end of the following period for which a new representative market rate may be calculated.

However, the representative market rate based on the last reference period of the year shall apply as from the first day of the following year.

#### Article 4

By derogation from use of the representative market rate, in applying trade arrangements, conversion into the national currency of a Member State of an amount expressed in the national currency of a third country shall be effected by the Member State concerned using the conversion rate to be used in the determination of the customs value.

## TITLE II

**Agricultural conversion rates***Article 5*

1. The agricultural conversion rates for floating currencies shall be determined in accordance with Article 4 (1) of Regulation (EEC) No 3813/92 at the end of each month, on the basis of the final reference period of the month as indicated in Article 2 of this Regulation.

2. The agricultural conversion rates calculated in accordance with paragraph 1 shall be adjusted according to the provisions of Article 4 (3) of Regulation (EEC) No 3813/92 in line with the monetary gaps with the representative market rates based on the reference periods as indicated in Article 2 of this Regulation.

*Article 6*

The agricultural conversion rate for a floating currency shall apply from the first day following the reference period on the basis of which it was determined.

However, the agricultural conversion rate based on the last reference period of a year is applicable from the first day of the next year.

*Article 7*

Amounts relating to world market data expressed in the national currency of a Member State shall be converted into ecus using a specific agricultural conversion rate equal to the representative market rate.

## TITLE III

**Advance fixing of agricultural conversion rates***Article 8*

1. Agricultural conversion rates shall be fixed in advance on the terms referred to in Article 6 (1) of Regulation (EEC) No 3813/92, on application by the party concerned where such application is lodged at the same time as:

- the application for a certificate, or an equivalent document, fixing in advance the amount concerned, expressed in ecus, or  
where appropriate,
- the submission of a tender as part of a tendering procedure, with the exception of tenders submitted to the intervention agency.

In the case of a tendering procedure, applications for advance fixing of the agricultural conversion rate shall be subject to the acceptance of all or part of the tender.

2. The duration of validity of an advance fixing of the agricultural conversion rate is that of the advance fixing of the amount concerned in ecu, or of the award of the tender. However, such duration of validity is limited to the end of the third month following that of the advance fixing of the conversion rate.

After the end of the duration of validity of an advance fixing of the agricultural conversion rate applicable to the amount in question shall be that set out in the first subparagraph of Article 6 (1) of Regulation (EEC) No 3813/92.

3. Where the agricultural conversion rate is fixed in advance, the certificate, or the equivalent document, shall be valid only in a single Member State to be designated by the applicant when applying to have the agricultural conversion rate fixed in advance.

*Article 9*

1. As regards the products falling within CN codes 0402 10 91, 0402 10 99, 0402 29, 0402 99, 0403 10 12, 0403 10 14, 0403 10 16, 0403 10 32, 0403 10 34, 0403 10 36, 0403 90 31, 0403 90 33, 0403 90 39, 0403 90 61, 0403 90 63, 0403 90 69, 0404 90 51, 0404 90 53, 0404 90 59, 0404 90 91, 0404 90 93 and 0404 90 99, the agricultural conversion rate may only be fixed in advance where the export refund has been fixed for all components of the product in question.

2. As regards goods covered by Regulation (EEC) No 3035/80, the agricultural conversion rate may only be fixed in advance if, in the case of at least one of the basic products, the total quantity eligible for an export refund is covered by one or more certificates for export refunds fixed in advance.

For the purposes of the preceding subparagraph, only basic products whose weight represents 10 % or more of the weight of the goods shall be taken into account.

Where one or more certificates as referred to in the first subparagraph are presented for the export of goods and where, because the conditions referred to in the said subparagraph are not met, these goods do not qualify for an advance fixing of the agricultural conversion rate, then the certificate or certificates shall not be accepted by the competent authorities.

Where several certificates as referred to in the first subparagraph are presented when the goods are cleared through customs, only the date on the first certificate issued shall count for the purposes of determining the agricultural conversion rate. In such case, only certificates covering the total quantity of the basic product or products shall be taken into account.

*Article 10*

1. If an application is made for advance fixing of the agricultural conversion rate, the application for a certificate or an equivalent document, or the tender submission, shall include one of the following entries :

- Fijación anticipada del tipo de conversión agrario
- Forudfastsættelse af landbrugsomregningskursen
- Vorausfestsetzung des landwirtschaftlichen Umrechnungskurses
- Προκαθορισμός της γεωργικής ισοτιμίας
- Advance fixing of the agricultural conversion rate
- Fixation à l'avance du taux de conversion agricole
- Fissazione anticipata del tasso di conversione agricolo
- Vaststelling vooraf van de landbouwmrekeningskoers
- Fixação antecipada da taxa de conversão agrícola

The application shall also include a mention of the Member State in which the certificate will be used.

2. The certificate itself, or the equivalent document, or the tender award declaration shall include one of the following entries :

- Tipo de conversión agrario fijado por anticipado el ... (fecha de la fijación previa), el cual se ajustará eventualmente.

Certificado válido en ... (estado miembro designado por el solicitante)

- Landbrugsomregningskurs forudfastsat den ... (dato for forudfastsættelsen) justeres i påkommende tilfælde.

Licens gyldig i ... (medlemsstat, der er angivet af ansøgeren)

- Am ... (Vorausfestsetzungsdatum) im voraus festgesetzter landwirtschaftlicher Umrechnungskurs; muß gegebenenfalls angepaßt werden.

Lizenz gilt in ... (vom Antragssteller angegebener Mitgliedstaat)

- Γεωργική ισοτιμία προκαθοριζόμενη στις ... (ημερομηνία προκαθορισμού), που ενδέχεται να αναπροσαρμοστεί.

Πιστοποιητικό που ισχύει στο ... (κράτος μέλος υποδεικνυόμενο από τον αιτούντα)

- Agricultural conversion rate fixed in advance on ... (date of advance fixing), to be adjusted as appropriate.

Certificate valid in ... (Member State designated by the applicant)

- Taux de conversion agricole fixé à l'avance le ... (date de préfixation), à ajuster éventuellement.

Certificat valable en ... (État membre désigné par le demandeur)

- Tasso di conversione agricolo fissato in anticipo il ... (data della fissazione anticipata), da modificarsi se del caso.

Titolo valido in ... (Stato membro designato dal richiedente)

- Landbouwmrekeningskoers vooraf vastgesteld op ... (datum van de vaststelling vooraf), eventueel aan te passen.

Certificaat geldig in ... (door de aanvrager aangegeven Lid-Staat)

- Taxa de conversão agrícola fixada antecipadamente em ... (data de prefixação) a ajustar eventualmente.

Certificado válido em ... (Estado-membro designado pelo requerente)

*Article 11*

1. In the event of a change in the agricultural conversion rate of a floating currency being adjusted, the rate fixed in advance for that currency in the reference period serving as the basis for determining the new agricultural conversion rate shall be adjusted so as to be replaced by the latter rate.

2. If the absolute value of the gap between the agricultural conversion rate fixed in advance and the agricultural conversion rate in force at the time of the operative event provided for in Article 6 (1) first subparagraph of Regulation (EEC) No 3813/92, exceeds four points, the agricultural conversion rate fixed in advance shall be adjusted to bring it more closely in line with the rate in force, up to the level of a gap of four points with that rate.

*Article 12*

1. Where a review of the monetary or market situation reveals difficulties arising from the application of the rules concerning the advance fixing of the agricultural conversion rate or where such difficulties are liable to arise, a decision may be taken to suspend the application of these rules for the relevant products, in accordance with the procedure laid down in Article 12 of Regulation (EEC) No 3813/92.

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 the agricultural conversion rate for a maximum of three working days.

3. During the period when the advance fixing of the agricultural conversion rate is suspended, applications for the advance fixing of the agricultural conversion rate shall not be accepted.

An application for advance fixing of the agricultural conversion rate made before the advance fixing is suspended shall not be affected by the suspension decision.

4. In a Member State subject to the suspension referred to in paragraph 3, an application for advance fixing of the agricultural conversion rate may be lodged during a period of seven days following the end of the suspension period for amounts fixed in advance in ecus during the said period.

5. Applications for certificates or equivalent documents, or submission for tenders, including advance fixing of the concerned amounts in ecus shall not be affected by the provisions of this Article.

## TITLE IV

## General provisions

*Article 13*

For the purposes of this Regulation, a working day means any day where an ecu rate is determined by the Commission.

*Article 14*

Amounts quoted in tenders submitted in response to invitations to tender organized under an instrument forming part of the common agricultural policy shall, with the exception of amounts the Community contribution to which is financed from the European Agricultural Guidance and Guarantee Fund, Guidance Section, be expressed in ecus.

*Article 15*

1. The monetary gaps shall be established to three places of decimals, rounding off the third place.

The representative market rates and the agricultural conversion rates shall be established to six significant figures, rounding off the sixth figure.

2. For the purposes of this Article 'significant figures' means:

- all figures, in the case of a number whose absolute value is greater than or equal to 1, or
- all decimal places starting from the first one which is not zero, in other cases.

The roundings-off referred to in this Article shall be effected by increasing by one unit the figure concerned in cases where the following figure is greater than or equal to five and by leaving unchanged in other cases.

*Article 16*

Regulations (EEC) No 3152/85, (EEC) No 3153/85, (EEC) No 3154/85, (EEC) No 3155/85, (EEC) No 3156/85, (EEC) No 3578/88, (EEC) No 653/92, (EEC) No 1641/91 and 3757/92 are hereby repealed.

*Article 17*

This Regulation shall enter into force on 1 January 1993.

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

Done at Brussels, 28 December 1992.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

---