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*(Acts whose publication is obligatory)*

**COUNCIL REGULATION (EEC) No 3813/92  
of 28 December 1992**

**on 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 Articles 42 and 43 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Having regard to the opinion of the Monetary Committee,

Whereas the internal market provided for in Article 8a of the Treaty will comprise, from 1 January 1993, an area without internal frontiers; whereas application of the agrimonetary arrangements on the basis of:

- 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 <sup>(4)</sup>,
- Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture <sup>(5)</sup>,
- Council Regulation (EEC) No 1678/85 of 11 June 1985 fixing the conversion rates to be applied in agriculture <sup>(6)</sup>,
- Council Regulation (EEC) No 129/78 of 24 January 1978 on the exchange rates to be applied for the purposes of the common agricultural structures policy <sup>(7)</sup>,

requires checks at the Community's internal frontiers; whereas, therefore, agrimonetary arrangements must be

established which are compatible with the internal market and the Regulations in question should be repealed;

Whereas the ecu was defined by Council Regulation (EEC) No 3180/78 of 18 September 1978 changing the value of the unit of account used by the European Monetary Cooperation Fund <sup>(8)</sup>; whereas it should be possible to use this unit of account to fix and express the prices or amounts established under the common agricultural policy;

Whereas, prior to the achievement of economic and monetary union, prices and amounts fixed in ecus must be paid in national currency and the conversion rates applicable in the agricultural sector must therefore be determined; whereas such rates must be reasonably stable while closely reflecting actual economic and monetary circumstances; whereas, without prejudice to the rates provided for in Article 22 of Council Regulation (EEC) No 4253/88 of 19 December 1988, laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different structural funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments <sup>(9)</sup> specific rates may be necessary in certain special cases;

Whereas, in the event of a monetary realignment, the agricultural conversion rates should in principle be adjusted immediately whereas, however, it may be desirable to make the adjustment to a certain extent gradually in order to avoid market disturbance, as a result of minor adaptations, or it may be necessary to proceed in this manner in order to lessen the impact of major adjustments; whereas, in all cases, a permissible bilateral monetary gap must not be overstepped if significant market disturbance is to be avoided;

<sup>(8)</sup> OJ No L 379, 30. 12. 1978, p. 1. Regulation as last amended by Regulation (EEC) No 1971/89 (OJ No L 189, 4. 7. 1989, p. 1).

<sup>(9)</sup> OJ No L 374, 31. 12. 1988, p. 1.

<sup>(1)</sup> OJ No C 188, 25. 7. 1992, p. 23.

<sup>(2)</sup> OJ No C 337, 21. 12. 1992.

<sup>(3)</sup> OJ No C 332, 16. 12. 1992, p. 26.

<sup>(4)</sup> OJ No L 164, 24. 6. 1985, p. 1. Regulation as last amended by Regulation (EEC) No 2205/90 (OJ No L 201, 31. 7. 1990, p. 9).

<sup>(5)</sup> OJ No L 164, 24. 6. 1985, p. 6. Regulation as last amended by Regulation (EEC) No 2205/90.

<sup>(6)</sup> OJ No L 164, 24. 6. 1985, p. 11. Regulation as last amended by Regulation (EEC) No 3679/92 (OJ No L 370, 19. 12. 1992, p. 73).

<sup>(7)</sup> OJ No L 20, 25. 1. 1978, p. 16.

Whereas the conversion rates between the ecu and the currencies of third countries used in agriculture should be indicated, particularly in order to determine the influence of the situation on the world market;

Whereas, if the agricultural conversion rate is changed during the period when an operation is being carried out, the rate applicable to the amounts concerned must be determined; whereas, as a general rule, the operative event for the agricultural conversion rate is the event whereby the economic objective of the operation is attained; whereas it may be necessary to specify or derogate from this operative event, while respecting certain criteria, and particularly the speed with which the new agricultural conversion rates are actually applied and whereas this, on principle, excludes the various possibilities for long-term advance fixing of the rate; whereas, as regards the amounts fixed by the Council in the context of the agricultural structures policy, a reduction in the aid granted before the new agricultural conversion rate takes effect should be avoided;

Whereas, in the event of major monetary re-evaluations, agricultural incomes concerned shrink more rapidly and to a greater extent than incomes in other sectors of the economy; whereas it is therefore justified to provide for the possibility of granting temporary and degressive re-evaluation compensatory aid to accompany the adjustment of agricultural prices without hindering the definitive adjustment of agriculture to the rules of the economy in general; whereas the principle of the cohesion provided for in Article 130A of the Treaty calls for the possibility of a Community contribution towards the compensatory aid to farmers; whereas the level of the Community contribution must vary according to the requirements and the financial resources available in the regions of the Community which are referred to by Objective 1 provided for in Article 1 of Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Fund and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments<sup>(1)</sup>;

Whereas it is appropriate, moreover, to extend, for a limited period, the mechanism relating to the transfer of the fixed positive monetary gaps referred to in Article 6 of Regulation (EEC) No 1677/85; whereas, however, the reduction, in the prices and amounts, referred to in paragraphs 3 and 4 of the said Article do not apply to the compensation decided upon in the context of the common agricultural policy and referred to in Council Regulation (EEC) No 1765/92 of 30 June 1992 establishing a support system for producers of certain arable crops<sup>(2)</sup>, Council Regulation (EEC) No 1357/80 of 5 June 1980 introducing a system of premiums for maintaining

suckler cows<sup>(3)</sup>, in Article 4a of Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal<sup>(4)</sup>, in Council Regulation (EEC) No 2078/92 of 30 June 1992 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside<sup>(5)</sup>, in Council Regulation (EEC) No 2079/92 of 30 June 1992 instituting a Community aid scheme for early retirement from farming<sup>(6)</sup> and in Council Regulation (EEC) No 2080/92 of 30 June 1992 instituting a Community aid scheme for forestry measures in agriculture<sup>(7)</sup>;

Whereas provisions must be made to enable aspects of the arrangements governing trade in agricultural products with third countries to be adapted rapidly in the event of changes in the central rates of the currencies of the Member States or the exchange rates of the currencies of certain third countries;

Whereas reason dictates that special rules 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 arrangements established under the common agricultural policy operate effectively;

Whereas, to facilitate implementation of this Regulation, provision should be made for a procedure instituting close cooperation between the Member States and the Commission;

Whereas provision should be made for the possibility of interim measures to facilitate the introduction of the new agrimonetary arrangements,

HAS ADOPTED THIS REGULATION:

#### Article 1

For the purposes of this Regulation:

(a) 'legal instruments relating to the common agricultural policy' shall mean:

- legal instruments based directly or indirectly on Article 43 of the EEC Treaty, with the exception of the Common Customs Tariff and other legal instruments of customs legislation applicable to both agricultural and industrial products,

<sup>(1)</sup> OJ No L 185, 15. 7. 1988, p. 9.

<sup>(2)</sup> OJ No L 181, 1. 7. 1992, p. 12.

<sup>(3)</sup> OJ No 140, 5. 6. 1980, p. 1. Regulation as last amended by Regulation (EEC) No 2066/92 (OJ No L 215, 30. 7. 1992, p. 49).

<sup>(4)</sup> OJ No L 148, 28. 6. 1968, p. 24. Regulation as last amended by Regulation (EEC) No 2066/92 (OJ No L 215, 30. 7. 1992, p. 49).

<sup>(5)</sup> OJ No L 215, 30. 7. 1992, p. 85.

<sup>(6)</sup> OJ No L 215, 30. 7. 1992, p. 91.

<sup>(7)</sup> OJ No L 215, 30. 7. 1992, p. 96.

- legal instruments applicable to goods processed from agricultural products and subject to specific trade arrangements ;
- (b) — *fixed currencies*' shall mean currencies which are maintained within a maximum spread at any given time of 2,25 % or less within the European Monetary System ;
  - *floating currencies*' shall mean other currencies of Member States or of third countries ;
- (c) *'correcting factor'* shall mean a coefficient which :
  - from 1 January 1993 is equal to the coefficient referred to in Article 6 (1) of Regulation (EEC) No 1677/85 and as applied on 31 December 1992,
  - thereafter, is altered by the Commission, whenever parities are realigned within the European Monetary System, in line with the highest revaluation of the central rate of the fixed currencies against the ecu ;
- (d) *'representative market rate'* shall mean :
  - in the case of a fixed currency, the central rate for the ecu fixed within the framework of the European Monetary system, multiplied by the correcting factor,
  - in the case of a floating currency, the average exchange rate for the ecu with respect to that currency, recorded over a reference period determined in accordance with the procedure laid down in Article 12 and multiplied by the correcting factor ;
- (e) *'agricultural conversion rate'* shall mean the rate used in legal instruments relating to the common agricultural policy, to convert :
  - amounts expressed in ecus into the national currency of a Member State,
  - amounts expressed in the national currency of a Member State into ecus ;
- (f) *'monetary gap'* shall mean the percentage of the agricultural conversion rate representing the difference between that rate and the representative market rate.

#### Article 2

1. The unit of account used in legal instruments relating to the common agricultural policy shall be the ecu as defined in Regulation (EEC) No 3180/78.
2. It may be decided, in accordance with the procedure provided for in Article 12, that the price and amounts concerned shall be expressed in ecus and where appropriate, in national currency in the main administrative documents drawn up by the Community or by the Member States, for the purpose of applying the instruments referred to in paragraph 1.

#### Article 3

1. Without prejudice to the derogations provided for in paragraphs 2, 3 and 4 the agricultural conversion rate shall be fixed by the Commission on the basis of the representative market rate and in accordance with Article 4.

The agricultural conversion rate shall initially, for fixed currencies, be equal to the representative market rate as applied on 1 January 1993 ; for the floating currencies it shall be fixed taking account of the representative market rate for a reference period in the month preceding that date.

2. In the case of measures Community financing of which under the European Agricultural Guidance and Guarantee Fund (EAGGF) comes solely from the Guidance Section, the agricultural conversion rate shall be equal to the rate applying for the entry into the accounts of expenditure to the general budget of the European Communities.

3. Taking into account the correcting factor, a specific agricultural conversion rate closely reflecting the actual economic circumstances may be determined or, where required, detailed rules for determining such a rate may be adopted in accordance with the procedure laid down in Article 12 in order to forestall risks of market distortion of monetary origin, and in particular :

- to avoid exceeding the monetary gap characteristic of the trend in the representative market rate at the time the agricultural conversion rate is determined,
- to convert into ecus amounts relating to world market data and expressed in the national currency of a Member State.

4. Where a budgetary limit is set, the agricultural conversion rate may be fixed at the rate applying for entry into the accounts of expenditure to the general budget of the European Communities, in accordance with the procedure whereby the limit was determined.

#### Article 4

1. The agricultural conversion rate for a floating currency shall be adjusted where the monetary gap exceeds 2 points for the last referenced period of a month. In that case, the new agricultural conversion rate shall be fixed so as to reduce that monetary gap by half, without prejudice to paragraph 3 and shall take effect from the start of the following month.

2. In the event of a monetary realignment affecting the central rates determined for the Member States with fixed currencies, the agricultural conversion rates shall be adjusted immediately so as to :

- eliminate the monetary gaps of the fixed currencies,
- and
- reduce the monetary gaps of the floating currencies by half, where they exceed 2 points over an appropriate reference period, without prejudice to paragraph 3.

However, should a monetary realignment lead to a monetary gap for a fixed currency :

- less than, or equal to, 0,5 points, this gap shall be dismantled by the beginning of the next marketing year at the latest,
- greater than four points, this gap shall be immediately reduced to two points. The remaining gap shall be dismantled over a maximum period of 12 months from the date of realignment.

The adjustments of the agricultural conversion rates, provided for in the second subparagraph, shall be made by the Commission in accordance with the procedure laid down in Article 12.

3. If, over a reference period, the absolute value of the difference in the gaps between the currencies of any two Member States exceeds four points, any monetary gaps for the Member States concerned that exceed two points shall immediately be reduced to two points. This adjustment shall be made after any adjustment required pursuant to paragraphs 1 and 2.

#### *Article 5*

1. The representative market rate for the national currency of a third country shall be used in legal instruments relating to the common agricultural policy to convert :

- amounts expressed in ecus into the national currency of that third country,
- amounts expressed in the national currency of that third country into ecus.

2. Without account being taken of the correcting factor, in order to avoid risks of market distortion of monetary origin, the Commission, by virtue of the powers conferred on it by the legal instruments relating to the common agricultural policy in each individual case, may derogate from paragraph 1 to permit the use of conversion rates more closely reflecting the actual economic circumstances.

3. The detailed rules for determining a specific conversion rate closely reflecting the actual economic circumstances may be laid down in accordance with the procedure provided for in Article 12 with a view to the conversion of amounts expressed in the national currency of a third country into the national currency of a Member State.

#### *Article 6*

1. The operative event for the agricultural conversion rate shall be :

- the completion of customs import or export formalities in the case of amounts collected or granted in trade with the third countries,
- the event whereby the economic objective of the operation is attained in all other cases.

However, for the amounts fixed in advance in ecus and for the amounts established in ecus following an invitation to tender procedure, the agricultural conversion rate may be fixed in advance for a period which may last until the end of the third month following that in which it was fixed in advance. In this case, the agricultural conversion rate shall be the one which obtains, respectively, on the date on which it was fixed in advance or on the date on which the period for submitting tenders ended.

2. Where the operative event as referred to in paragraph 1 has to be specified or cannot be taken into account for reasons peculiar to the market organization or the amount in question, a specific operative event shall be determined in accordance with the procedure laid down in Article 12, taking account of the following criteria :

- (a) actual applicability as soon as possible of adjustments to the agricultural conversion rate ;
- (b) similarity of the operative events for analogous operations carried out under those different market organizations ;
- (c) coherence in the operative events for the various prices and amounts relating to a single market organization ;
- (d) practicability and effectiveness of checks on the application of suitable agricultural conversion rates.

3. The amounts fixed by the Council in the context of aid for which Community financing is provided by the EAGGF Guidance Section shall be converted into national currency at the agricultural conversion rate applicable on 1 January of the year during which the decision to grant the aid is taken.

Where the Community rules stipulate that payment of the aid is to be spread over several years, the aid instalments shall be converted using the most devalued agricultural conversion rate of those applicable on 1 January of each of the years from that in which the decision to grant the aid is taken until that for which the instalment in question is to be paid.

#### *Article 7*

Where the agricultural conversion rate applicable to :

- flat-rate aid calculated per hectare or per livestock unit,
- or
- a compensatory premium per sheep or goat,
- or
- amounts of a structural or environmental nature

is lower than that previously applied, the aid or amounts concerned shall be increased in ecus in accordance with the procedure laid down in Article 12.

The increase in the amounts referred to in the first subparagraph shall be determined in such a way as to avoid their reduction, in terms of the national currency of the Member State whose agricultural conversion rate is reduced the most among those which request application of this Article.

*Article 8*

1. Member States with floating currencies may for three years grant farmers compensatory aid when the average agricultural conversion rate over the previous 12 months is lower than the average agricultural conversion rate over the 12 months preceding that period. The periods taken into account in order for aid to be granted may not be taken into account for the grant of further aid.

2. The amount of the first annual instalment of aid shall be determined on the basis of the fall in average agricultural income in the Member State concerned caused by the reduction in the agricultural conversion rate. The amount of each annual instalment shall be reduced at least by one by one third of the amount granted during the first year.

Compensatory aid may not be granted in the form of an amount per unit of quantity produced.

3. The Community contribution to the financing of the compensatory aid shall amount to:

- 75 % of the aid actually granted to farmers in regions covered by Objective No 1 as referred to in Article 1 of Regulation (EEC) No 2052/88,
- 50 % of the amounts actually granted in other cases.

For the purposes of the financing of the common agricultural policy, this contribution shall be deemed to be part of intervention intended to stabilize the agricultural markets.

4. The Council shall, acting by a qualified majority on a proposal from the Commission and subject to the attainment of minimum limits, establish the maximum amounts which can be granted for each instalment of aid.

*Article 9*

1. Where the correcting factor is increased, the prices fixed in ecus in the context of the common agricultural policy shall be reduced at the beginning of the following marketing year in accordance with the procedure provided for in Article 12 by 25 % of the percentage of the change in the correcting factor.

2. Member States in which the prices in national currencies are reduced as a result of paragraph 1 being applied shall be authorized, according to a procedure to be determined by the Council, acting by a qualified majority on a proposal from the Commission, to grant national compensation aid. Such aid must be directed towards the socio-structural field and may not be linked to production.

3. The amounts fixed in ecus under the common agricultural policy, except for those referred to in:

- Regulation (EEC) No 1765/92,
- Regulation (EEC) No 1357/80 and Article 4a of Regulation (EEC) No 805/68,
- Regulations (EEC) No 2078/92, (EEC) No 2079/92 and (EEC) No 2080/92,

shall be altered appropriately as the need arises.

*Article 10*

In the case of a monetary realignment within the framework of the European Monetary System or of an abrupt and significant change in the exchange rates between the ecu and certain national currencies of third countries, the following amounts, fixed in the legal instruments relating to the common agricultural policy, may, as required, be fixed anew by the Commission using the new agricultural conversion rates in accordance with the methods applicable in each case and, where appropriate, in the light of developments in the market situation:

- import duties,
- export duties,
- export refunds,
- sluice-gate prices,
- aid fixed on the basis of world market data,
- import subsidies.

*Article 11*

1. Where exceptional monetary practices are liable to jeopardize the application of the legal instruments relating to the common agricultural policy, the Commission shall decide upon suitable protective measures, which may, where necessary, derogate from the existing legal instruments relating to the common agricultural policy.

The Council and the Member States shall be notified forthwith of the measures referred to in the first subparagraph.

Any Member State may refer the Commission's decision to the Council during the three working days following that on which they are notified of protective measures.

The Council, acting by a qualified majority, may take a different decision within one month of notification of the measures in question.

2. Where exceptional monetary practices are liable to jeopardize the application of the legal instruments relating to the common agricultural policy, the Commission may, by virtue of the powers conferred on it by these instruments in each individual derogate from this Regulation, in particular in the following cases:

- where a country uses abnormal exchange techniques such as multiple exchange rates or operates barter agreements,

— where countries have currencies which are not quoted on official foreign exchange markets or where the trend in such currencies is likely to create distortion in trade.

#### *Article 12*

The detailed rules of application for this Regulation shall be laid down in accordance with the procedure provided for in:

(a) Article 26 of Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals<sup>(1)</sup>,

or

(b) the corresponding articles of the other Regulations on the common organization of the markets in agricultural or fishery products,

or

(c) the corresponding articles of other Community provisions introducing a similar procedure.

#### *Article 13*

1. Where transitional measures prove necessary to facilitate the initial application of this Regulation, such measures shall be adopted by the Commission in accordance with the procedure laid down in Article 12 and shall remain applicable for the period strictly necessary to facilitate the introduction of the new arrangements.

2. The correcting factor and the elements of this Regulation relating to it shall apply for a period not exceeding two years from the date of entry into force of this Regulation. Before the expiry of that period, the Commission will present a report to the Council on the arrangements contained in this Regulation, accompanied by appropriate proposals, in order to permit the Council, acting by qualified majority, to decide on future policy in this field.

3. Regulations (EEC) No 1676/85, (EEC) No 1677/85, (EEC) No 1678/85 and (EEC) No 129/78 are hereby repealed.

#### *Article 14*

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 Council*

*The President*

J. GUMMER

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<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1. Regulation as last amended by Regulation (EEC) No 1738/92 (OJ No L 180, 1. 7. 1992, p. 1).