

REGULATION (EEC) No 645/75 OF THE COMMISSION

of 13 March 1975

laying down common detailed rules for the application of the export levies and charges on agricultural products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 136/66/EEC⁽¹⁾ of 22 September 1966 on the establishment of a common organization of the market in oils and fats, as last amended by Regulation (EEC) No 1707/73⁽²⁾, and in particular Article 17 (3) thereof;

Having regard to Council Regulation No 162/66/EEC⁽³⁾ of 27 October 1966 on trade in oils and fats between the Community and Greece;

Having regard to Council Regulation No 120/67/EEC⁽⁴⁾ of 13 June 1967 on the common organization of the market in cereals, as last amended by Regulation (EEC) No 85/75⁽⁵⁾, and in particular Article 12 (2) thereof;

Having regard to Council Regulation No 171/67/EEC⁽⁶⁾ of 27 June 1967 on export refunds and levies on olive oil, as last amended by Regulation (EEC) No 2429/72⁽⁷⁾, and in particular Article 11 thereof;

Having regard to Council Regulation No 359/67/EEC⁽⁸⁾ of 25 July 1967 on the common organization of the market in rice, as last amended by Regulation (EEC) No 476/75⁽⁹⁾, and in particular Article 10 (2) thereof;

Having regard to Council Regulation No 1009/67/EEC⁽¹⁰⁾ of 18 December 1967 on the common organization of the market in sugar, as last amended by Regulation (EEC) No 2476/74⁽¹¹⁾, and in particular Articles 11 (2) and 16 (4) and (5) thereof;

Having regard to Council Regulation (EEC) No 804/68⁽¹²⁾ of 28 June 1968 on the common organization of the market in milk and milk products, as last amended by Regulation (EEC) No 662/74⁽¹³⁾;

Having regard to Council Regulation (EEC) No 865/68⁽¹⁴⁾ of 28 June 1968 on the common organization of the market in products processed from fruit and vegetables, as last amended by Regulation (EEC) No 2429/72⁽¹⁵⁾;

Having regard to Council Regulation (EEC) No 1968/73⁽¹⁶⁾ of 19 July 1973 laying down general rules to be applied in the event of the cereals market being disturbed, as last amended by Regulation (EEC) No 86/75⁽¹⁷⁾, and in particular Article 4 (1) thereof;

Having regard to Council Regulation (EEC) No 2737/73⁽¹⁸⁾ of 8 October 1973 laying down general rules to be applied in the event of the rice market being disturbed, as amended by Regulation (EEC) No 477/75⁽¹⁹⁾, and in particular Article 4 (1) thereof;

Having regard to Council Regulation (EEC) No 1132/74⁽²⁰⁾ of 29 April 1974 on production refunds in the cereals and rice sectors, as last amended by Regulation (EEC) No 3113/74⁽²¹⁾, and in particular Article 9 (a) thereof;

Having regard to Council Regulation (EEC) No 1603/74⁽²²⁾ of 25 June 1974 on the imposition of an export charge on certain cereal, rice and milk-based products containing added sugar in the event of sugar supply difficulties, and in particular Article 1 (3) thereof;

Having regard to Council Regulation (EEC) No 2980/74⁽²³⁾ of 26 November 1974 on the imposition of an export charge on certain products processed from fruit and vegetables and containing added sugar in the event of sugar supply difficulties, and in particular Article 1 (4) thereof;

Whereas export levies or charges (hereinafter called 'levies') have been introduced for certain agricultural products; whereas experience has shown that there is a need to lay down common detailed rules for applying such levies;

Whereas levies should not be charged on exports effected under a licence where the refund is fixed in advance or determined by tender;

(1) OJ No 172, 30. 9. 1966, p. 3025/66.

(2) OJ No L 175, 29. 6. 1973, p. 5.

(3) OJ No 197, 29. 10. 1966, p. 3393/66.

(4) OJ No 117, 19. 6. 1967, p. 2269/67.

(5) OJ No L 11, 16. 1. 1975, p. 1.

(6) OJ No 130, 28. 6. 1967, p. 2600/67.

(7) OJ No L 264, 23. 11. 1972, p. 1.

(8) OJ No 174, 31. 7. 1967, p. 1.

(9) OJ No L 52, 28. 2. 1975, p. 31.

(10) OJ No 308, 18. 12. 1967, p. 1.

(11) OJ No L 264, 1. 10. 1974, p. 70.

(12) OJ No L 148, 28. 6. 1968, p. 13.

(13) OJ No L 85, 29. 3. 1974, p. 51.

(14) OJ No L 153, 1. 7. 1968, p. 8.

(15) OJ No L 264, 23. 11. 1972, p. 1.

(16) OJ No L 201, 21. 7. 1973, p. 10.

(17) OJ No L 11, 16. 1. 1975, p. 2.

(18) OJ No L 282, 9. 10. 1973, p. 13.

(19) OJ No L 52, 28. 2. 1975, p. 33.

(20) OJ No L 128, 10. 5. 1974, p. 24.

(21) OJ No L 332, 12. 12. 1974, p. 1.

(22) OJ No L 172, 27. 6. 1974, p. 9.

(23) OJ No L 318, 28. 11. 1974, p. 2.

Whereas certain exports are of no economic significance or concern very small quantities; whereas such transactions may be exempted from the levy;

Whereas it is necessary to specify the date to be taken into consideration for purposes of determining the rate of the export levy and also the Member State which is to collect the levy;

Whereas suitable provisions should be laid down to enable the levy to be recovered in the event that products which leave the territory of the Community in the course of transportation from one part of it to another do not return to the Community; whereas, to this end, use should be made of the provisions of Commission Regulation (EEC) No 1279/71⁽¹⁾ of 17 June 1971 on the use of Community transit documents for the purpose of applying certain measures on the exportation of certain goods, as last amended by Regulation (EEC) No 3227/74⁽²⁾;

Whereas export licences not involving advance fixing of the refund may have been applied for or issued before the date from which the levy is to apply; whereas, in fairness to those concerned, provision should be made, where the party concerned so requests, for such applications to be withdrawn or the licences cancelled and for the security to be released;

Whereas no export levy is chargeable on compensating products obtained under the inward processing arrangements provided for in Council Directive No 69/73/EEC⁽³⁾ of 4 March 1969 on the harmonization of provisions laid down by law, regulation or administrative action in respect of inward processing, as last amended by the Act of Accession⁽⁴⁾;

Whereas it is economically justified to provide that where no import charge is applicable in respect of a product, such product may, in order to avoid a levy being charged at the time of its exportation in the form of a compensating product, be processed under customs supervision; whereas the procedure for the amendment of the abovementioned Directive does not permit its scope to be extended at short notice; whereas a temporary solution to the present situation is required here and now;

Whereas the measures provided for in this Regulation are in accordance with the Opinions of all the relevant Management Committees,

⁽¹⁾ OJ No L 133, 19. 6. 1971, p. 32.

⁽²⁾ OJ No L 342, 21. 12. 1974, p. 30.

⁽³⁾ OJ No L 58, 8. 3. 1969, p. 1.

⁽⁴⁾ OJ No L 73, 27. 3. 1972, p. 14.

HAS ADOPTED THIS REGULATION:

Article 1

Without prejudice to the derogations provided for in the specific Community rules relating to certain agricultural products, this Regulation lays down common detailed rules for the application of the export levies and charges (hereinafter called 'levies') on agricultural products provided for in:

- the second indent of Article 18 (1) of Regulation No 136/66/EEC;
- Article 16 (1) and (4) of Regulation No 1009/67/EEC;
- the first indent of Article 2 (1) of Regulation (EEC) No 1968/73;
- the first indent of Article 2 (1) of Regulation (EEC) No 2737/73;
- Article 7 (2) of Regulation (EEC) No 1132/74;
- Article 1 (1) of Regulation (EEC) No 1603/74;
- Article 1 (1) of Regulation (EEC) No 2980/74.

Article 2

1. Save as otherwise provided in this Regulation, levies shall be chargeable on all exports from the geographical territory of the Community of products which come within the terms of Article 9 (2) of the Treaty, irrespective of the legal position with regard to their packaging.

2. Levies shall also be chargeable on all exports from the geographical territory of the Community of products not coming within Article 9 (2) of the Treaty in so far as one or more of their components are subject to the levy and came within Article 9 (2) before being incorporated in such products.

3. The first indent of Article 4 (2) of Regulation (EEC) No 192/75⁽⁵⁾ shall apply.

Article 3

1. No levy shall be chargeable on exports in respect of which a refund has been fixed in advance or determined by a tendering procedure.

Where in the case of a compound product a refund is fixed in advance in respect of one or more of its components, exemption from the levy shall apply only in respect of such component or components.

⁽⁵⁾ OJ No L 25, 31. 1. 1975, p. 1.

2. The levy shall not apply to :

- (a) products which within the Community are for victualling purposes shipped on board seagoing vessels or aircraft serving on international routes, provided that the quantity involved does not exceed that reasonably required for consumption on board such vessels or aircraft ;
- (b) products for the armed forces of a Member State which are stationed outside the geographical territory of the Community ;
- (c) small consignments of a non-commercial nature, where the weight of the leviable content does not exceed 3 kg per consignment ;
- (d) goods contained in travellers' personal luggage within the meaning of Regulation (EEC) No 1544/69⁽¹⁾, where the weight of the leviable content does not exceed 3 kg per traveller ;
- (e) products under one of the procedures provided for in Articles 2 and 3 of Regulation (EEC) No 441/69⁽²⁾, as last amended by Regulation (EEC) No 1181/72⁽³⁾.

3. The application of paragraph 2 (b) shall be subject to the production to the competent authorities of a certificate issued by the armed forces concerned confirming the destination of the products in respect of which customs export formalities have been completed, and to the condition that the transaction in question offers adequate assurance as to the arrival at their destination of the products concerned.

Article 4

1. Except where the levy is fixed in advance or determined under a tendering procedure, the rate of levy applicable shall be that in force on the day on which the customs authority accepts the document in which the declarant states his intention to export the products subject to a levy. At the time of such acceptance the products concerned shall be placed under customs control and shall remain so until they leave the Community.

2. For the purposes of this Regulation acceptance of the document referred to in paragraph 1 shall be considered to mark the completion of customs export formalities.

3. The day on which customs export formalities are completed shall be the operative date for determining the quantity, nature and characteristics of the product exported.

Article 5

1. The levy shall be collected by the Member State in whose territory customs export formalities are completed.

⁽¹⁾ OJ No L 191, 5. 8. 1969, p. 1.

⁽²⁾ OJ No L 59, 10. 3. 1969, p. 3.

⁽³⁾ OJ No L 130, 7. 6. 1972, p. 15.

2. Where the rate of levy varies according to destination :

- (a) the levy fixed for the destination declared in the document referred to in Article 4 (1) shall be charged ; any difference between the amount of such levy and that of the highest levy chargeable on the date of completion of customs export formalities shall be covered by a security ;
- (b) where such security is given, then, save in case of *force majeure*, the person accountable for the levy must within six months of the completion of customs export formalities furnish proof that the product has arrived at a destination ; such proof shall be furnished in the manner provided in Article 11 (1) of Regulation (EEC) No 192/75 ;
- (c) where the proof required by (b) is not furnished within the time limit prescribed, then, save in case of *force majeure*, the product exported shall be regarded as having reached a third country in respect of which the highest rate of levy is chargeable, and the security shall be forfeit and treated as levy ;
- (d) when, within the prescribed time limit, proof is furnished that the product has arrived at a destination, the competent authorities shall release the security according to the destination which the product has actually reached and in proportion to the quantities in respect of which such proof is furnished ; any amount of the security not released shall be forfeit and treated as levy ;
- (e) where the person accountable furnishes proof within the time limit specified in (b) that as a result of *force majeure* the product has reached a destination in respect of which the levy is lower than that charged, the competent authorities shall adjust the amount due and shall release any security given ;
- (f) the security referred to in subparagraph (a) shall consist either of a cash deposit or of a guarantee issued by an institution satisfying the criteria laid down by the Member State where customs export formalities are completed.

3. Where in any of the cases provided for in paragraph 2 (b), (c) and (e) the person accountable is unable by reason of *force majeure* to comply with the prescribed time limit, such time limit may at his request be extended for such period as the competent authorities of the Member State in which customs export formalities were completed consider necessary in view of the circumstances invoked.

Article 6

Movement within the Community of products subject to a levy shall be subject to the provisions of Regulation (EEC) No 1279/71.

Article 7

A security shall be given, in the manner prescribed in the first sentence of Article 4a (2) of Regulation (EEC) No 1279/71, in respect of products moving as provided in Article 4a or 4b of that Regulation to ensure that the levy is charged if such products do not re-enter the Community.

As soon as it has been established in the Member State of dispatch by the inspection of Community transit documents that the products concerned have re-entered the Community, the security shall be released, in proportion to the quantities in respect of which such proof is furnished.

Article 8

Where a product is placed under the procedure provided for in Regulation (EEC) No 304/71⁽¹⁾ for carriage to a station of destination situated within the territory of the Community, the office of departure may not authorize any variation of the contract of carriage which would enable carriage to end outside the geographical territory of the Community unless it has taken the necessary steps to ensure that the levy is charged. In such case, the rate of levy applicable shall be that in force on the day on which customs formalities for export to third countries are completed at the customs office of departure.

Article 9

1. Notwithstanding the provisions of Council Directive No 69/73/EEC of 4 March 1969 on the harmonization of provisions laid down by law, regulation or administrative action in respect of inward processing, the competent authorities of the Member States may, where the products in question are intended for export outside the customs territory of the Community wholly or partly in the form of compensating products, authorize the importation with a view to processing under customs supervision of agricultural products not coming within the terms of Article 9 (2) of the Treaty.

In such cases no export levy shall be charged.

2. Such products shall be processed in accordance with rules identical to those laid down in :

⁽¹⁾ OJ No L 35, 12. 2. 1971, p. 31.

— Articles 2 (3) and (4), 4 to 6, 9 to 21, 23 to 25, 31 and 32 of Council Directive No 69/73/EEC ;

— the Directives implementing the Articles referred to in the preceding indent.

3. Where the authorization allows the party concerned to export in advance products regarded as compensating products, a security as specified in Article 5 (2) (f) shall be given. The amount of the security shall be calculated by reference to the rate of levy applicable on the day on which customs export formalities are completed, or, if the rate varies according to destination, by reference to the highest such rate.

The security shall be released in proportion to the quantities in respect of which proof is furnished, within the time limit prescribed, of importation in fulfilment of the requirements laid down in this Article.

Where such proof is not furnished within the time limit prescribed, the products exported shall be regarded as having reached a third country in respect of which the highest rate of levy is chargeable and the security shall be forfeit and shall be treated as levy.

4. Where export in advance as provided in paragraph 3 is authorized, the time limit prescribed by the competent authorities for the corresponding importation may not exceed three months.

Article 10

1. During periods in which the levy for a given product is greater than zero, the party concerned may in respect of such product request the cancellation of an export licence for such product or withdraw an application for such licence save

- (a) where the licence provides for a refund fixed in advance or determined by a tendering procedure ;
- (b) where on the day within the meaning of Article 6 of Regulation (EEC) No 193/75⁽²⁾ on which the application for the licence was lodged a levy applied.
- (c) where the application is for a licence as referred to in (a) or (b).

2. In such cases the relevant security shall be released immediately.

⁽²⁾ OJ No L 25, 31. 1. 1975, p. 10.

Article 11

The following are hereby repealed:

- Regulation (EEC) No 991/72;
- Regulation (EEC) No 1076/72;
- Regulation (EEC) No 2182/73;
- Regulation (EEC) No 2823/73;
- Regulation (EEC) No 389/74;
- Articles 4 (1) and (3), and 5 of Regulation (EEC) No 1981/74;
- Regulation (EEC) No 3162/74 (Article 2 (3) being repealed with effect from 1 May 1975 only);
- Regulation (EEC) No 3170/74.

The repeal of Regulations (EEC) No 1076/72, (EEC) No 2182/73 and (EEC) No 2823/73 shall be without prejudice to such provisions of Regulation (EEC) No 2637/70⁽¹⁾, as last amended by Regulation (EEC) No 558/75⁽²⁾, as have been amended or inserted by those Regulations.

Article 12

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

It shall apply to operations in respect of which customs export formalities are completed on or after 31 March 1975.

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

Done at Brussels, 13 March 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

⁽¹⁾ OJ No L 283, 29. 12. 1970, p. 15.

⁽²⁾ OJ No L 59, 5. 3. 1975, p. 16.