

COMMISSION REGULATION (EEC) No 1031/78

of 19 May 1978

laying down detailed rules for imports of rice to Réunion

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EEC) No 709/78 ⁽²⁾, and in particular Articles 11a (6) and 27 thereof,

Having regard to Regulation No 129 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy ⁽³⁾, as last amended by Regulation (EEC) No 2543/73 ⁽⁴⁾, and in particular Article 3 thereof,

Whereas the special arrangements laid down in Article 11a of Regulation (EEC) No 1418/76 for imports of rice to the French overseas department of Réunion include, to ensure equal treatment, a subsidy for rice coming from the Member States; whereas, in order to give Community exporters stability in the amount of this subsidy, provision should be made to fix it in advance;

Whereas the possibility of fixing the subsidy in advance requires steps to ensure that in every case the export is carried out in accordance with the application; whereas each applicant should therefore receive a subsidy document requiring the goods in question to be exported within a given period;

Whereas, in order to avoid abuse, the issue of such documents should be conditional upon the lodging of a security, which should be forfeited if the goods are not exported within the period of validity of the document;

Whereas it is necessary to lay down detailed rules of application for the subsidy document; whereas certain provisions of Commission Regulation (EEC) No 193/75 of 17 January 1975 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ⁽⁵⁾, as last amended by Regulation (EEC) No 1470/77 ⁽⁶⁾, may be made applicable to the subsidy document;

Whereas the products to which Article 11a (4) of Regulation (EEC) No 1418/76 applies must be put to a specified end-use; whereas provision should therefore be made for these products to be accompanied as far as the competent customs office at Réunion by the Control Copy T No 5 provided for by Commission Regulation (EEC) No 223/77 of 22 December 1976 on provisions for the implementation of the Community transit procedure and for certain simplifications of that procedure ⁽⁷⁾;

Whereas it appears from Article 11a and its relevant recital that rice imported under the arrangements provided for in that Article is intended for human consumption;

Whereas any rice which is not intended for such use should not benefit from the subsidy;

Whereas, moreover, the competent national authorities should be empowered to take all necessary control measures to ensure that the rice, whether imported from third countries or from a Member State, is used for its prescribed purpose;

Whereas Commission Regulation (EEC) No 1535/77 of 4 July 1977 determining the conditions under which certain goods are eligible upon importation for a favourable tariff arrangement by reason of their end-use ⁽⁸⁾ contains certain provisions which are not suitable for the special case of the products referred to in Article 11a of Regulation (EEC) No 1418/76; whereas provisions adapted to the special situation of these products should therefore be included in this Regulation;

Whereas trade operations in progress at the moment make transitional arrangements necessary;

Whereas the Monetary Committee will be consulted; whereas the urgency of the situation makes it necessary to adopt the proposed measures in the manner provided for in Article 3 (2) of Regulation No 129;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 94, 8. 4. 1978, p. 9.

⁽³⁾ OJ No 106, 30. 10. 1962, p. 2553/62.

⁽⁴⁾ OJ No L 263, 19. 9. 1973, p. 1.

⁽⁵⁾ OJ No L 25, 31. 1. 1975, p. 10.

⁽⁶⁾ OJ No L 162, 1. 7. 1977, p. 11.

⁽⁷⁾ OJ No L 38, 9. 2. 1977, p. 20.

⁽⁸⁾ OJ No L 171, 9. 7. 1977, p. 1.

HAS ADOPTED THIS REGULATION :

Article 1

This Regulation lays down detailed rules of application concerning :

- the subsidy referred to in Article 11a (4) of Regulation (EEC) No 1418/76,
- the measures to check the end-use referred to in Article 11a (1) thereof.

Article 2

1. The subsidy shall be equal to the levy applicable to the product concerned on the day on which the customs formalities for export to Réunion were completed.

2. The subsidy may however be fixed in advance. In this case it shall be equal to the levy applicable to the product concerned on the day on which the application for the subsidy document referred to in Article 3 was lodged.

3. For products falling within subheading 10.06 B of the Common Customs Tariff, the amount of the subsidy referred to in the above paragraphs shall be reduced by the amount for the protection of the industry referred to in Article 14 (3) of Regulation (EEC) No 1418/76.

Article 3

1. The subsidy document referred to in Article 2 (2) shall be valid throughout the Community. It shall be issued to all parties requesting it, whatever their place of establishment in the Community. The issue of this document shall be conditional upon the lodging of a security guaranteeing the undertaking to export to Réunion during the period of validity of the document, which shall be forfeited in whole or in part if the operation is not carried out or is carried out only partially within that period.

2. The following provisions of Regulation (EEC) No 193/75 shall apply by analogy to the subsidy document :

- Article 3,
- Article 5,
- Article 6,
- Article 7,
- Article 8,
- Article 9 (1),
- Article 10,
- Article 11,
- Article 12,
- Article 13,
- Article 15,
- Article 16,
- Article 20.

3. The subsidy document shall create the obligation to export to Réunion, under cover of the document,

and during the period of its validity, the specified net quantity of the product. When the quantity exported is less by not more than 7 % than the quantity indicated in the subsidy document, the obligation to export shall be deemed to have been fulfilled. When the quantity exported exceeds by not more than 5 % the quantity indicated in the document it shall be deemed to have been exported under cover of the document.

4. The subsidy documents shall be drawn up at least in duplicate. The first copy, called 'Holder's copy' and marked 'No 1' shall be issued without delay to the applicant and the second, called 'Issuing agency's copy' and marked 'No 2', shall be kept by the issuing agency.

Copy No 1 of the subsidy document shall be submitted to the office where the customs formalities for export to Réunion are completed. After attribution of the quantity and endorsement by the office referred to in the foregoing subparagraph, Copy No 1 of the subsidy document shall be returned to the party concerned. The date on which the customs formalities are completed shall be the day on which the customs authority accepts the document by which the declarant states his intention to export the products in question.

5. As regards the period of validity of the subsidy documents, the obligation to export shall be deemed to have been fulfilled on the day when customs formalities relating to the products in question are completed.

The security shall be released only on production of proof that the customs export formalities relating to the product in question have been completed.

The proof provided for in the preceding subparagraph shall be furnished by production of Copy No 1 of the subsidy document and where appropriate, of Copy No 1 of the extract or extracts from subsidy documents endorsed in accordance with paragraph 4.

6. The security shall be released as soon as the proof referred to in the third subparagraph of paragraph 5 has been furnished.

Without prejudice to Article 20 of Regulation (EEC) No 193/75, when the obligation to export has not been fulfilled, the security shall be forfeit in an amount equal to the difference between :

- (a) 93 % of the net quantity indicated in the subsidy document, and
- (b) the net quantity actually exported.

However, if the net quantity exported amounts to less than 7 % of the net quantity indicated in the subsidy document, the whole of the security shall be forfeit. Furthermore, if the total amount of the security which should be forfeit is less than two units of account for a subsidy document, the Member State may release the

whole of the security. On application by the holder of the document, Member States may release the security by instalments in *pro rata* to the quantities of products in respect of which the proof referred to in the third subparagraph of paragraph 5 has been furnished, subject to proof that a quantity equal to at least 7 % of the net quantity indicated in the subsidy document has been exported. When the proof referred to in paragraph 5 has not, except for reasons of *force majeure*, been furnished within six months of the last day of the subsidy document, the security shall be forfeit.

7. The application for a subsidy document and the document itself shall include in Section 12 one of the following endorsements written in red or underlined in red:

- 'Subsidy document for rice exported to Réunion (Article 11a of Regulation (EEC) No 1418/76)',
- 'Document de subvention riz Réunion (article 11 bis du règlement (CEE) n° 1418/76)',
- 'Tilskudsdokument ris Réunion (artikel 11a i forordning (EØF) nr. 1418/76)',
- 'Subventionsdokument Reis Réunion (Artikel 11a der Verordnung (EWG) Nr. 1418/76)',
- 'Documento di sovvenzione riso Riunione (articolo 11 bis del regolamento (CEE) n. 1418/76)',
- 'Subsidiebewijs rijst Réunion (artikel 11 bis van Verordening (EEG) nr. 1418/76)'.

Section 18 shall include one of the following endorsements:

- 'Subsidy for rice exported to Réunion fixed in advance on ... (date on which the application for the document was lodged)',
- 'Subvention riz Réunion préfixée le ... (date du dépôt de la demande du document)',
- 'Tilskud ris Réunion forudfastsat den ... (dato for indgivelsen af ansøgningen om dokumentet)',
- 'Subvention Reis Réunion im voraus festgesetzt am ... (Eingangsdatum des Antrags für das Dokument)',
- 'Sovvenzione riso Riunione prefissato il ... (giorno in cui è stato richiesto il documento)',
- 'Subsidie rijst Réunion vooraf vastgesteld op ... (datum waarop aanvraag van het bewijs is ingediend)'.

The title of the export licence or advance fixing certificate and Section 17 shall be crossed out in red.

8. The subsidy document shall be valid from the date of its issue within the meaning of Article 9 (1) of Regulation (EEC) No 193/75 until the end of the third month following such date.

9. The date of the security referred to in paragraph 1 shall be three units of account per tonne.

Article 4

1. In order to benefit from the subsidy, interested parties shall:

- state, at the time of completion of the customs formalities for export to Réunion, their intention to benefit from the subsidy,
- furnish proof that the product has been released for consumption in Réunion.

2. The proof referred to in the second indent of paragraph 1 shall be furnished by production of the control copy referred to in Article 10 of Regulation (EEC) No 223/77.

Among the special endorsements on the control copy, the following shall be completed:

(a) Sections 101 and 103;

(b) Section 104 deleting where inappropriate and adding one of the following endorsements:

- 'To be released for consumption in Réunion (Article 11a of Regulation (EEC) No 1418/76)',
- 'Bestemt til at overgå til fri omsætning på Réunion (artikel 11a i forordning (EØF) nr. 1418/76)',
- 'Bestimmt zur Überführung in den freien Verkehr in Reunion (Artikel 11a der Verordnung (EWG) Nr. 1418/76)',
- 'Destiné à être mis à la consommation à la Réunion (article 11 bis du règlement (CEE) n° 1418/76)',
- 'Destinato ad essere immesso in consumo nel dipartimento francese d'oltre-mare della Riunione (articolo 11 bis del regolamento (CEE) n. 1418/76)',
- 'Bestemd voor consumptie in Réunion (artikel 11 bis van Verordening (EEG) nr. 1418/76)';

(c) Section 106 completed with one of the following endorsements as appropriate:

- 'Réunion rice subsidy applicable on ... (date of customs export formalities)',
- 'Tilskud for ris Réunion gældende den ... (dato for toldbehandlingen ved udførselen)',
- 'Subvention Reis Réunion anwendbar am ... (Tag der Erfüllung der Ausfuhrzollförmlichkeiten)',
- 'Subvention riz Réunion applicable le ... (date d'accomplissement des formalités douanières d'exportation)',
- 'Sovvenzione riso Riunione applicabile il ... (giorno di espletamento delle formalità doganali di esportazione)',
- 'Subsidie rijst Réunion van toepassing op ... (datum van de vervulling van douaneformaliteiten bij uitvoer)';

or

- 'Réunion rice subsidy fixed in advance on ... (date of advance fixing)',
- 'Tilskud for ris Réunion forudfastsat den ... (datoen for forudfastsættelsen)',
- 'Subvention Reis Réunion vorausfestgesetzt am ... (Tag der Vorausfestsetzung)',
- 'Subvention riz Réunion préfixée le ... (date de préfixation)',
- 'Sovvenzione riso Riunione prefissata il ... (giorno della prefissazione)',
- 'Subsidie rijst Réunion vooraf vastgesteld op ... (datum van de vaststelling vooraf)'.

The competent customs office in Réunion shall complete the section 'Control as to use and/or destination' when completing the customs formalities for release for consumption.

Article 5

1. The subsidy shall be granted only to products of sound, genuine and merchantable quality and provided that their use for human consumption is not excluded or substantially impaired by their characteristics or condition. If these quality conditions are not met at the time of completion of the customs formalities for release for consumption in Réunion, one of the following endorsements shall be entered in the relevant section on the control copy referred to in Article 4:

- (Number of kilograms in letters and figures) not in accordance with specification. *Idem* in five languages.)

2. The subsidy shall only be paid at the written request of the party concerned by the Member State on whose territory the customs formalities for export to Réunion were completed. The Member States may provide a special form for this purpose.

3. Save in case of *force majeure*, entitlement to the subsidy shall be lost, unless the file for payment of the subsidy is lodged within six months following the day on which the customs export formalities were completed.

Article 6

1. Member States may advance to the exporter the whole or part of the subsidy on completion of the customs formalities for export to Réunion, provided that a security is lodged for the amount of the advance plus 15 %.

2. The advance, increased by 15 %, shall be repaid *pro rata* in respect of those quantities of products for which the proofs required by this Regulation to establish entitlement to the subsidy have not been

furnished within the required period. In this case, if an exporter, after being requested to repay the advance, fails to do so, the security shall be forfeit *pro rata* in respect of the quantities involved.

However, if by reason of *force majeure*, the abovementioned proofs cannot be furnished, the additional 15 % shall not be payable.

Article 7

1. For the purposes of application of Article 11a (1) of Regulation (EEC) No 1418/76, 'products intended for consumption' shall mean products intended for human consumption either unprocessed or after processing.

2. When products are released for consumption in Réunion:

- either with the benefit of Article 11a (2) or (3) of Regulation (EEC) No 1418/76,
- or accompanied by the control copy referred to in Article 4,

the competent authorities shall take all necessary control measures to ensure that the products are put to the end-use referred to in Article 11a (1) of Regulation (EEC) No 1418/76.

These measures shall, in particular, oblige the holders of the products in question to keep accounts enabling the competent authorities to make such checks as they consider necessary.

3. Where the products referred to in the first indent of the first subparagraph of paragraph 2 are not put to the prescribed end-use, except in case of *force majeure*, the amount of the levy not collected on importation of the products shall be paid without prejudice to any claim for interest on arrears.

Where the products referred to in the second indent of the first subparagraph of paragraph 2 are not put to the prescribed end-use, except in case of *force majeure*, the amount of the subsidy granted for these products shall be recovered, without prejudice to any claim for interest on arrears.

The sums referred to in the preceding sub-paragraphs shall be paid to the competent authorities of the Member State in which the end-use is checked.

When the subsidy has been paid in a currency other than the French franc, the sum to be recovered shall be converted into French francs using the last sale exchange rate recorded on the Paris exchange market on the date of the completion of the customs formalities for export to Réunion.

The products referred to in paragraph 1 may not be re-exported from Réunion either to third countries or to any other part of the Community.

Article 8

1. Member States shall inform the Commission each month :

- of the quantities of products for which the subsidy documents referred to in Article 3 were applied for during the preceding month, indicating these quantities by Common Customs Tariff subheading,
- of the quantities for which a request for payment of the subsidy referred to in Article 11a (4) of Regulation (EEC) No 1418/76 was lodged, indicating these quantities by Common Customs Tariff subheading.

2. France shall inform the Commission each month of the quantities of products released for

consumption during the previous month in Réunion with the benefit of Article 11a (2) or (3) of Regulation (EEC) No 1418/76, indicating these quantities by Common Customs Tariff subheading.

Article 9

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

However, on application by any interested party within seven days of the said entry into force, a date of advance fixing of the subsidy within the period from 11 May 1978 to the day preceding that of the said entry into force shall be entered on the subsidy document.

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

Done at Brussels, 19 May 1978.

For the Commission

Finn GUNDELACH

Vice-President
