

COMMISSION REGULATION (EC) No 369/2001

of 23 February 2001

laying down special measures derogating from Regulations (EC) No 800/1999, (EEC) No 3719/88 and (EC) No 1291/2000 in the cereal-based compound feedingstuffs sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾, and in particular Articles 13 and 21 thereof,

Whereas:

- (1) Council Decision 2000/766/EC of 4 December 2000 concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein ⁽³⁾ requires the Member States to prohibit, in particular, the exportation to third countries of processed animal proteins intended for the feeding of farmed animals kept for the production of food.
- (2) Commission Regulation (EC) No 800/1999 ⁽⁴⁾, as last amended by Regulation (EC) No 90/2001 ⁽⁵⁾, lays down common detailed rules for the application of the system of export refunds on agricultural products.
- (3) Commission Regulation (EEC) No 3719/88 ⁽⁶⁾, as last amended by Regulation (EC) No 1127/1999 ⁽⁷⁾, and, for licences applied for from 1 October 2000, Commission Regulation (EC) No 1291/2000 ⁽⁸⁾ lay down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products.
- (4) Council Regulation (EEC) No 565/80 ⁽⁹⁾, as amended by Regulation (EEC) No 2026/83 ⁽¹⁰⁾, lays down general rules on the advance payment of export refunds in respect of agricultural products.
- (5) Commission Regulation (EC) No 1517/95 ⁽¹¹⁾ lays down detailed rules for the application of Regulation (EEC) No 1766/92 as regards the arrangements for the export and import of compound feedingstuffs based on cereals.

- (6) In view of the presence of processed animal protein in compound feedingstuffs based on cereals, health measures taken by the Community in relation to exports have seriously affected the financial interests of exporters. The possibilities for exportation under the terms of Regulations (EEC) No 565/80, (EC) No 800/1999, (EEC) No 3719/88 and (EC) No 1291/2000 have been restricted.
- (7) It is therefore necessary to limit the adverse impact on exporters by adopting special provisions applying to export operations that in these circumstances it has not been possible to complete, in particular the release of the security covering unused export licences.
- (8) These provisions should benefit only operators who can show on the basis of the documents referred to in Article 1(2) of Council Regulation (EEC) No 4045/89 ⁽¹²⁾, as last amended by Regulation (EEC) No 3235/94 ⁽¹³⁾, that they have in the circumstances been unable to export.
- (9) Given the situation for operators, this Regulation should enter into force immediately.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation shall apply to the products listed in Article 1(1) of Regulation (EC) No 1517/95.

2. It shall apply only in cases where the exporter shows to the satisfaction of the competent authority that he was unable to complete export operations which were otherwise in accordance with Community rules, owing to the introduction of health measures taken by the Community due to the presence of processed animal proteins in cereal-based compound feedingstuffs.

Competent authorities shall base their assessment on the commercial documents referred to in Article 1(2) of Regulation (EEC) No 4045/89.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 306, 7.12.2000, p. 32.

⁽⁴⁾ OJ L 102, 17.4.1999, p. 11.

⁽⁵⁾ OJ L 14, 18.1.2001, p. 22.

⁽⁶⁾ OJ L 331, 2.12.1988, p. 1.

⁽⁷⁾ OJ L 135, 29.5.1999, p. 48.

⁽⁸⁾ OJ L 152, 24.6.2000, p. 1.

⁽⁹⁾ OJ L 62, 7.3.1980, p. 5.

⁽¹⁰⁾ OJ L 199, 22.7.1983, p. 12.

⁽¹¹⁾ OJ L 147, 30.6.1995, p. 51.

⁽¹²⁾ OJ L 388, 30.12.1989, p. 18.

⁽¹³⁾ OJ L 338, 28.12.1994, p. 16.

Article 2

1. At the holder's request export licences issued under Regulation (EC) No 1517/95 that were applied for on or before 7 December 2000 shall be cancelled and the security released.
2. On application by the exporter and concerning products for which by 31 December 2000:
 - the customs export formalities had been completed but they had not yet left the Community's customs territory or they had been placed under one of the customs control procedures referred to in Articles 4 and 5 of Regulation (EEC) No 565/80, the exporter shall repay any refund paid in advance and the various securities pertaining to the operations shall be released,
 - the customs formalities had been completed and they had left the Community's customs territory, they may be brought back. The exporter shall repay any refund paid in

advance and the various securities pertaining to the operations shall be released.

3. If entitlement to the refund is lost pursuant to the conditions laid down in this Regulation stipulate that the penalty specified in Article 51(1)(a) of Regulation (EC) No 800/1999 shall not apply.

Article 3

For each situation indicated in Article 2, Member States shall, every Wednesday, report the quantities for products concerned for the previous week, specifying the date of issue of the licences and certificates and the respective CN codes.

Article 4

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

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

Done at Brussels, 23 February 2001.

For the Commission

Franz FISCHLER

Member of the Commission
