

COMMISSION REGULATION (EEC) No 2938/82

of 3 November 1982

amending for the fifth time Regulation (EEC) No 1842/81 in respect of the grant of adjusted refunds in the case of cereals exported in the form of certain spirituous beverages

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 1451/82⁽²⁾, and in particular Articles 16 (6) and 24 thereof,

Having regard to Council Regulation (EEC) No 1188/81 of 28 April 1981 laying down general rules for granting refunds adjusted in the case of cereals exported in the form of certain spirituous beverages and the criteria for fixing the amount of such refunds and amending Regulation (EEC) No 3035/80 concerning certain products not covered by Annex II to the Treaty⁽³⁾, and in particular Article 12 thereof,

Whereas under Article 3 (1) of Regulation (EEC) No 1188/81 the quantities of cereals subject to inward processing arrangements must be excluded when determining the quantities placed under control and the coefficient, to avoid payment of an export refund in respect of cereals for which no import levy is payable;

Whereas, however, the quantities subject to inward processing arrangements can be ascertained only when the imports concerned have taken place; whereas the coefficient cannot be established before 1 August each year if inward processing arrangements are used during the marketing year in respect of which the coefficient is applicable;

Whereas it is possible both to eliminate that drawback and achieve the aim of the measure, even where the quantities of whisky obtained under inward processing arrangements are taken into account when determining the coefficient, if it is ensured that, where inward processing arrangements are used, a certain quantity of imported cereals is used for the manufacture of spirituous beverages without being entered on the payment

declaration referred to in Article 1 of Regulation (EEC) No 1842/81⁽⁴⁾, as last amended by Regulation (EEC) No 2440/82⁽⁵⁾; whereas Member States are required in such cases, when authorizing imports under inward processing arrangements, to weight the quantities of cereals presented to the customs authorities by a coefficient identical to that referred to in Article 9 of Regulation (EEC) No 1842/81; whereas as a result of these operations the effect of the charge in the method for calculating this coefficient is offset by the change in the method for calculating the quantity to which the coefficient in question applies;

Whereas if the relationship between cereals fulfilling the conditions of Article 9 (2) of the Treaty and cereals subject to inward processing arrangements is substantially modified or if the refund is abolished for certain destinations, application of the abovementioned method of determining the coefficient will lead to an inexact result; whereas application of that method should be permitted only when it is not necessary to apply the provisions relating to these events;

Whereas 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

Regulation (EEC) No 1842/81 is hereby amended as follows:

1. Article 6 is replaced by the following text:

Article 6

1. For the purposes of Article 3 of Regulation (EEC) No 1188/81:

(a) "total export quantities" means the quantities of spirituous beverages fulfilling the terms of Article 9 (2) of the Treaty and exported to a destination for which the refund applies. The proofs to be furnished shall be those specified in Article 12;

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 164, 14. 6. 1982, p. 1.

⁽³⁾ OJ No L 121, 5. 5. 1981, p. 3.

⁽⁴⁾ OJ No L 183, 4. 7. 1981, p. 10.

⁽⁵⁾ OJ No L 261, 9. 9. 1982, p. 15.

(b) "total quantities released to the market" means the quantities of spirituous beverages fulfilling the terms of Article 9 (2) of the Treaty which have been finally dispatched for human consumption for production or storage facilities.

2. However, where Member States when authorizing import under inward processing arrangements :

— weight the quantity of cereals presented to the customs authorities by the coefficient referred to in Article 9, and

— ensure that the quantity of cereals which, as a consequence of the weighting is released for free circulation, is also used for the manufacture of spirituous beverages referred to in Article 2 of Regulation (EEC) No 1188/81.

"total export quantities" and "total quantities released to the market" mean the quantities of spirituous beverages referred to in paragraph 1 plus the spirituous beverages which are considered as having completed processing under inward processing arrangements.

3. The first indent of paragraph 2 shall not apply where the conditions for application of the first

indent of Article 3 (2) or of Article 5 of Regulation (EEC) No 1188/81 are fulfilled.

4. Paragraph 2 shall not prejudice adjustment of the coefficient in order to ensure payment of the import levies in respect of the by-products obtained under inward processing arrangement but not intended for export.

5. Where paragraph 2 applies, cereals released for free circulation referred to in the second indent of that paragraph shall not be eligible for the export refund.

2. The following paragraph is added to Article 16 :

'4. Member States applying Article 6 (2) shall communicate, together with the information referred to in paragraphs 2 and 3, information as to the quantity of cereals referred to in the second indent of Article 6 (2).'

Article 2

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

It shall apply with effect from 1 August 1982.

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

Done at Brussels, 3 November 1982.

For the Commission

Poul DALSGER

Member of the Commission