

## COMMISSION REGULATION (EEC) No 1938/93

of 19 July 1993

amending Regulation (EEC) No 3002/92 in particular as regards the release of the security lodged with a view to the export of products from intervention

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 of 22 September 1966 on the establishment on the common organization of the market in oils and fats<sup>(1)</sup>, as last amended by Regulation (EEC) No 2046/92<sup>(2)</sup>, and in particular Articles 12 (4) and 26 (3) thereof, and to the corresponding provisions of the other Regulations on the common organization of the markets in agricultural products,

Whereas Member States must be given more time to carry out any reorganization of their control agencies required for compliance with the requirement that a single control body be responsible for verification of the use and/or destination of all products, whatever their origin, covered by any specific measure or part thereof;

Whereas in certain cases products from intervention are sold at a price calculated by taking account of the amount of the refund applicable for third countries or a particular third country; whereas, therefore, entitlement to the export refund is deducted from the selling price;

Whereas, in order to ensure proper completion of the operation a security is to be lodged; whereas the amount of this security is calculated by taking account of the various aspects of the operation concerned, in particular the risk of deflection of trade and full compliance with the undertakings given by operators;

Whereas, in the light of experience gained, it is necessary to reconsider the consequences of the disposal of products from intervention on the markets of third countries other than those intended at the time of exportation;

Whereas, to this effect, the rules governing the release of securities lodged at geographical destinations actually reached should be adapted, whilst ensuring the effectiveness of the measures adopted for the sale of products from intervention; whereas, taking account of the diversity of the situations, it appears possible to provide, at a

horizontal level, only for rules as to the release of the security which are limited to the aspect of export refunds;

Whereas, therefore, Commission Regulation (EEC) No 3002/92<sup>(3)</sup>, as last amended by Regulation (EEC) No 1231/93<sup>(4)</sup>, should be amended;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 3002/92 is amended as follows:

1. in Article 2 (1), third subparagraph the words 'six months' are replaced by '10 months';
2. Article 11 (2) is replaced by the following:
 

'2. The requirements laid down in points (a) to (d) of paragraph 1 shall constitute primary requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85, without prejudice to the provisions of Article 15 (2) of this Regulation.'
3. Article 15 is replaced by the following:

*Article 15*

1. Release of the security shall be subject to the production of the proof referred to in Article 4, and
  - where the products are to be imported into a specific third country, or
  - where, in cases where the products are to be exported from the Community, serious doubts exist about the true destination,

to production of the proof specified in Articles 17 and 18 of Regulation (EEC) No 3665/87.

The competent authorities of the Member States may require satisfactory additional proof that the products have in fact been placed on the market of the importing third country.

Where there are serious doubts as to the real destination of the products, the Commission may request Member States to apply the provisions of this paragraph.

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

<sup>(2)</sup> OJ No L 215, 30. 7. 1992, p. 1.

<sup>(3)</sup> OJ No L 301, 17. 10. 1992, p. 17.

<sup>(4)</sup> OJ No L 124, 20. 5. 1993, p. 25.

2. Where the product is to be imported into a specific third country and where the amount of refund is deducted from the selling price and the relevant proof referred to in paragraph 1 is not supplied:

- (a) a part of the security shall be released on presentation of proof that the product has left the customs territory of the Community; the amount released shall be equal to the lowest refund determined in accordance with Article 20 of Regulation (EEC) No 3665/87 applicable on the day the export declaration is accepted;
- (b) in addition to the amount referred to under (a), that part of the security corresponding to the difference between the lowest refund referred to above and the amount of the refund applicable on the day on which the export declaration to the actual third country of imports is accepted, in so far as this amount does not exceed the amount of refund

applicable to the obligatory destination, shall be released where

- export to the abovementioned third country could not be made owing to a case of *force majeure* and
- the proof of import into the other country of destination is submitted in accordance with paragraph 1.'

#### *Article 2*

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

Point 1 of Article 1 shall apply from 1 July 1993.

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

Done at Brussels, 19 July 1993.

*For the Commission*

René STEICHEN

*Member of the Commission*