

COMMISSION REGULATION (EC) No 1384/95

of 19 June 1995

amending Regulation (EEC) No 3665/87 as regards the adjustments necessary for the implementation of the Uruguay Round Agreement on Agriculture

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3290/94 of 22 December 1994 on the adjustments and transitional arrangements required in the agriculture sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations⁽¹⁾, and in particular Article 4 (1) thereof,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽²⁾, as last amended by the Act of Accession of Austria, Finland and Sweden and by Regulation (EC) No 3290/94, and in particular Article 13 (11) thereof, and the corresponding provisions of the other regulations on the common organization of markets in agricultural products,

Whereas the implementation of the Uruguay Round Agreement on Agriculture involves substantial amendments to the arrangements for export refunds, and in particular making the grant of a refund subject, as a general rule, to the requirement of an export licence comprising the advance fixing of the refund; whereas, however, deliveries in the Community for international organizations and for the armed forces, deliveries for victualling and exports of small quantities are special cases and of minor economic importance; whereas, for those reasons, provision has been made for a special system without an export licence to simplify such export operations and avoid an excessive administrative burden for economic operators and the competent authorities; whereas the special system should be maintained for the abovementioned deliveries, so as not to make it obligatory to present an export licence comprising advance fixing of the refund; whereas, in return for this special procedure, a short time limit must be set for the notification of the quantities to be entered in the accounts in connection with the Uruguay Round Agreement;

Whereas in the case of differentiated refunds, if there has been a change of destination, the refund applicable to the actual destination is payable, subject to a ceiling of the level of the amount applicable to the destination fixed in advance; whereas to prevent abuse whereby destinations with the highest rates of refund are selected systemati-

cally, a system of penalties for changing the destination where the actual rate of refund is less than the rate for the destination fixed in advance should be introduced; whereas this new provision has consequences for the calculation of the part of the refund payable once the exporter furnishes proof that the product has left the customs territory of the Community;

Whereas Commission Regulation (EEC) No 3665/87⁽³⁾, as last amended by Regulation (EC) No 331/95⁽⁴⁾, should be amended accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3665/87 is amended as follows:

1. Article 1 is replaced by the following:

'Article 1

Without prejudice to derogations provided for in Community rules specific to certain products, this Regulation lays down common detailed rules for the application of the system of export refunds (hereinafter referred to as "refunds") established by or provided for in:

- Article 3 of Council Regulation No 136/66/EEC⁽¹⁾ (oils and fats),
- Article 17 of Council Regulation (EEC) No 804/68⁽²⁾ (milk and milk products),
- Article 13 of Council Regulation (EEC) No 805/68⁽²⁾ (beef and veal),
- Article 26 of Council Regulation (EEC) No 1035/72⁽⁴⁾ (fruit and vegetables),
- Article 17 of Council Regulation (EEC) No 1785/81⁽⁵⁾ (sugar, isoglucose, inulin syrup),
- Article 13 of Council Regulation (EEC) No 2759/75⁽⁶⁾ (pigmeat),
- Article 8 of Council Regulation (EEC) No 2771/75⁽⁷⁾ (eggs),

⁽¹⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽²⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽³⁾ OJ No L 351, 14. 12. 1987, p. 1.

⁽⁴⁾ OJ No L 38, 18. 2. 1995, p. 1.

- Article 8 of Council Regulation (EEC) No 2777/75 ^(*) (poultrymeat),
- Article 14 of Council Regulation (EEC) No 1418/76 ^(*) (rice),
- Articles 13, 14 and 14a of Council Regulation (EEC) No 426/86 ^(*) (products processed from fruit and vegetables),
- Articles 55 and 56 of Council Regulation (EEC) No 822/87 ^(*) (wine),
- Article 13 of Council Regulation (EEC) No 1766/92 ^(*) (cereals).

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

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

^(*) OJ No L 148, 28. 6. 1968, p. 24.

^(*) OJ No L 118, 20. 5. 1972, p. 1.

^(*) OJ No L 177, 1. 7. 1981, p. 4.

^(*) OJ No L 282, 1. 11. 1975, p. 1.

^(*) OJ No L 282, 1. 11. 1975, p. 49.

^(*) OJ No L 282, 1. 11. 1975, p. 77.

^(*) OJ No L 166, 25. 6. 1976, p. 1.

^(*) OJ No L 49, 27. 2. 1986, p. 1.

^(*) OJ No L 84, 27. 3. 1987, p. 1.

^(*) OJ No L 181, 1. 7. 1992, p. 21.

2. In Article 2 (1) (b) 'agricultural levies and' is deleted.
3. In Chapter 1, the following Article 2a is inserted:

Article 2a

Entitlement to the refund shall be conditional upon presentation of an export licence comprising advance fixing of the refund, except in the case of exports of agricultural products in the form of goods not covered by Annex II to the Treaty and exports relating to food aid operations within the meaning of Article 10 (4) of the Uruguay Round Agreement on Agriculture.

However, no licence shall be required:

- where the amount of the refund per export declaration does not exceed ECU 60; where an export declaration includes several separate codes of the refunds nomenclature or the combined nomenclature, the entries relating to each of the codes shall be regarded as constituting a separate declaration,
- in the cases referred to in Articles 3a, 34, 38, 42, 43 and 44 (1).²

4. In Article 10, the second subparagraph of paragraph 2 is deleted.
5. In the seventh subparagraph of Article 11 (1) 'Article 48' is replaced by 'Article 33 (2) or Article 48'.
6. Article 20 is replaced by the following:

Article 20

1. By way of derogation from Article 16 and without prejudice to Article 5, a part of the refund

shall be paid upon proof being furnished that the product has left the customs territory of the Community.

Where the amount payable does not exceed ECU 1 000, Member States may defer payment of such an amount until payment of the total amount of the refund concerned, except in cases where the exporter states that he will not apply for payment of a further amount for the operation concerned.

2. The part of the refund referred to in paragraph 1 shall be equal to the amount of the refund which the exporter would receive if his product reached a destination for which the lowest rate of refund had been fixed, the non-fixing of a rate being regarded as the lowest rate.

The part of the refund referred to in paragraph 1 shall be equal to the lowest amount resulting from the application of paragraph 3.

3. Where the destination indicated in box 7 of the licence issued comprising advance fixing of the refund has not been observed:

- (a) if the rate of refund corresponding to the actual destination is equal to or greater than the rate of refund for the destination indicated in box 7, the rate of refund for the destination indicated in box 7 shall apply;
- (b) if the rate of refund corresponding to the actual destination is less than the rate of refund for the destination indicated in box 7, the refund to be paid shall be:
 - that resulting from the application of the rate corresponding to the actual destination,
 - reduced, save in the case of *force majeure*, by 20 % of the difference between the refund resulting from the destination indicated in box 7 and the refund for the actual destination.

For the purposes of applying the first subparagraph, the rates of refund to be taken into consideration shall be those valid on the day on which the licence application is submitted.

Where the provisions of the first and second subparagraphs and of Article 11 apply to one and the same export operation, the amount resulting from the first subparagraph shall be reduced by the penalty referred to in Article 11.

4. Where a rate of refund has been determined in connection with a tendering procedure and that tendering procedure contains an obligatory destination clause, the non-fixing of a periodic refund or the fixing of a periodic refund for that obligatory destina-

tion on the date on which the licence application is submitted and on the date on which the export declaration is accepted shall not be taken into consideration for determining the lowest rate of refund.'

7. In Article 21, paragraph 4 is replaced by the following:

'4. Where paragraph 3 applies, the refund applicable shall be equal to the refund fixed for the actual destination but may not be greater than the refund applicable for the destination indicated in box 7 of the licence issued comprising advance fixing of the refund.'

8. In Article 33 (2) the following is added at the end:

'The provisions of Article 48 (4) and (6) shall apply *mutatis mutandis*.'

9. In the first subparagraph of Article 42 (2) 'specified in Article 20' is deleted.

10. In Article 49, the following indent is added:

— for each eleven-digit code the quantities exported without an export licence comprising advance fixing of the refund for the cases referred to in the second subparagraph of Article 2a, the information being broken down for each of the cases referred to in the second subparagraph of Article 2a. Member States shall take appropriate measures

to ensure that the communication is made at the latest in the second month following that in which the customs export formalities are completed.'

Article 2

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

This Regulation shall apply to export declarations accepted from 1 July 1995.

However,

— for products falling within the rice and wine sectors, this Regulation shall apply to export declarations accepted from 1 September 1995,

— for products falling within the sugar sector, this Regulation shall apply to export declarations accepted from 1 October 1995,

— for products falling within the olive oil sector, this Regulation shall apply to export declarations accepted from 1 November 1995.

Points 5 and 8 of Article 1 shall apply to exports for which the formalities referred to in Article 3 or Article 25 of Regulation (EEC) No 3665/87 are completed on or after 1 April 1995.

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

Done at Brussels, 19 June 1995.

For the Commission

Franz FISCHLER

Member of the Commission