

COMMISSION REGULATION (EC) No 90/2001**of 17 January 2001****amending Regulation (EC) No 800/1999 laying down common detailed rules for the application of the system of export refunds on agricultural products**

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 and the corresponding provisions of the other regulations on the common organisation of markets in agricultural products,

Whereas:

- (1) In the case of products exported in bulk or in non-standard units for which it is accepted that their exact net mass cannot be known until after the means of transport has been loaded, Article 5(6) of Commission Regulation (EC) No 800/1999 ⁽³⁾, as amended by Regulation (EC) No 1557/2000 ⁽⁴⁾, provides for a reduction in the refund if it is found that the net mass actually loaded is less than a certain percentage of the estimated net mass. To apply this provision, however, account needs to be taken of the constraints inherent in transport by sea or inland waterway. In the case of products exported in bulk, it can happen that the quantities declared are not completely loaded, especially where the person responsible for the means of transport has decided to halt loading for technical reasons or if other exporters have loaded more than anticipated.
- (2) As some cuts of pigmeat are not put up in packaging and are not by nature standardised, the category of non-standard units should be extended to include those products.
- (3) As regards the concept of the 'place of loading', a great many administrative and commercial circumstances affect the trade in agricultural exports; it is therefore hard to lay down a single rule and the Member States should accordingly be allowed to decide on the most appropriate place for conducting the physical checks of exported agricultural products qualifying for an export refund. To this end, there are particularly good grounds for defining the place of loading differently, depending on whether the goods are loaded in containers or, conversely, in bulk, sacks or cartons, and not subsequently loaded into containers. In duly justified cases, the customs authorities should also be permitted to

accept the lodging of an export declaration for agricultural products qualifying for a refund at a customs office other than the office responsible for the place where the products are loaded.

- (4) Provision should also be made for products under the returned-goods system to be reintroduced either via the Member State in which the products originated or via the Member State of first export.
- (5) Regulation (EC) No 800/1999 should therefore be amended.
- (6) The measures provided for in this Regulation are in accordance with the opinions of all the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 800/1999 is amended as follows:

1. The text of the current third subparagraph of Article 5(6) is replaced by the following:

'No refund shall be granted for quantities exceeding 110 % of the estimated net mass. Where the mass actually loaded is less than 90 % of the estimated net mass, the refund for the net mass actually loaded will be reduced by 10 % of the difference between the refund corresponding to 90 % of the estimated net mass and the refund corresponding to the mass actually loaded. However, where export occurs by sea or navigable inland waterway, if the exporter can supply signed proof from the person responsible for the means of transport that constraints peculiar to this type of transport or alternatively overloading on the part of other exporters have prevented the loading of all his goods, the refund shall be paid for the net mass actually loaded. This subparagraph shall apply if the exporter has used the local clearance procedure provided for in Article 283 of Regulation (EEC) No 2454/93, provided that the customs authorities have authorised the correction of the records in which the exported products were entered.'

2. The text of the current fourth subparagraph of Article 5(6) is replaced by the following:

'The following shall be considered non-standard units: live animals, (half-) carcasses, quarters, fore-ends, legs, shoulders, bellies and loins.'

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 102, 17.4.1999, p. 11.

⁽⁴⁾ OJ L 179, 18.7.2000, p. 6.

3. Article 5(7) is replaced by the following:

'7. All persons exporting products for which they claim a refund shall be required to:

- (a) lodge the export declaration with the competent customs office in the place where the products are to be loaded for export transport;
- (b) inform that customs office at least 24 hours prior to starting the loading operations and indicate the anticipated duration of loading. The competent authorities may stipulate a time limit other than 24 hours.

The following may be considered as the place of loading for the transport of products intended for export:

- in the case of products exported in containers, the place where they are loaded into the containers,
- in the case of products exported in bulk, sacks, cartons, boxes, bottles, etc. and not loaded into containers, the place where the means of transport, in which they will leave the customs territory of the Community, is loaded.

The competent customs office may authorise the loading operations after having accepted the export declaration, before expiry of the time limit referred to in point (b).

The competent customs office must be able to make physical checks and identify the goods for transport to the office of exit from the customs territory of the Community.

If the first subparagraph cannot be applied for administrative or other duly justified reasons, the export declaration may be lodged only with a competent customs office in the

Member State concerned and, where a physical check is carried out in accordance with Regulation (EEC) No 386/90, any goods presented must be fully unloaded. However, the goods do not have to be unloaded completely if the competent authorities can perform a thorough physical check.'

4. The last subparagraph of Article 25(3) is replaced by the following:

This provision shall apply only where the returned-goods system is used in the Member State in which the export declaration covering the original export was accepted or in the Member State of origin in accordance with Article 15 of Council Directive 97/78/EC (*) laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries.

(*) OJ L 24, 30.1.1998, p. 9.'

Article 2

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

At an exporter's request, Article 1(1) shall apply to those refund case files that have not been closed by the time this Regulation enters into force.

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

Done at Brussels, 17 January 2001.

For the Commission
 Franz FISCHLER
 Member of the Commission