

COMMISSION REGULATION (EC) No 252/2002

of 11 February 2002

derogating from Regulation (EC) No 1291/2000 as regards the export licences issued by Austria in the beef and veal sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, as last amended by Commission Regulation (EC) No 2345/2001 ⁽²⁾, and in particular Article 29(2) and Article 41 thereof,

Whereas:

- (1) Article 8(2) of Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ⁽³⁾, as amended by Regulation (EC) No 2299/2001 ⁽⁴⁾, states that an export licence gives rise to an obligation to export the specified quantity of relevant product during its period of validity.
- (2) Commission Regulation (EC) No 1445/95 ⁽⁵⁾, as last amended by Regulation (EC) No 2492/2001 ⁽⁶⁾, lays down rules of application for import and export licences in the beef and veal sector.
- (3) Following the first case of bovine spongiform encephalopathy recorded in Austria on 7 December 2001, the health measures taken by the authorities of certain third countries in regard to exports of bovine animals and their meat have seriously affected the financial interests of exporters. Export options have thus been seriously restricted.
- (4) It is therefore necessary to limit the adverse impact on exporters by allowing them, notwithstanding Article 8(2) of Regulation (EC) No 1291/2000, to cancel export licences which they can prove they are unable to use.
- (5) This measure 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 ⁽⁷⁾, as last amended by Regulation (EC) No 3235/94 ⁽⁸⁾, that they have in the circumstances been unable to export and that, in particular, their licences were requested in order to export to the third countries that have adopted restrictive health measures.

(6) Given the way in which the situation has evolved, this Regulation should be brought into force immediately.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation shall apply to the products listed in Article 1(1) of Regulation (EC) No 1254/1999 for which an export licence as referred to in the second subparagraph of Article 29(1) of that Regulation has been issued in Austria.

2. It shall apply only in cases where the exporter shows to the satisfaction of the competent authorities that he was unable to export owing to the introduction of health measures by the authorities of the countries of destination in response to the discovery of a case of bovine spongiform encephalopathy in Austria on 7 December 2001.

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

Article 2

Article 8(2) of Regulation (EC) No 1291/2000 notwithstanding, at the holder's request export licences issued under Regulation (EC) No 1445/95 that were applied for by 14 December 2001 shall, if their validity did not expire before 1 December 2001, be cancelled and the security released. The decision to cancel shall be limited to the quantity of product that was not exported.

Article 3

Each Thursday Austria shall notify the quantities of products to which the cancellation referred to in Article 2 was applied in the preceding week, specifying the date of issue of the licences and the category involved.

Article 4

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

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.

⁽²⁾ OJ L 315, 1.12.2001, p. 29.

⁽³⁾ OJ L 152, 24.6.2000, p. 1.

⁽⁴⁾ OJ L 308, 27.11.2001, p. 19.

⁽⁵⁾ OJ L 143, 27.6.1995, p. 35.

⁽⁶⁾ OJ L 337, 20.12.2001, p. 18.

⁽⁷⁾ OJ L 388, 30.12.1989, p. 18.

⁽⁸⁾ OJ L 338, 28.12.1994, p. 16.

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

Done at Brussels, 11 February 2002.

For the Commission
Franz FISCHLER
Member of the Commission
