

Proposal for a Council Regulation (EEC) amending Council Regulation (EEC) No 386/90 on the monitoring carried out at the time of export of agricultural products receiving refunds or other amounts

(93/C 218/09)

COM(93) 339 final

(Submitted by the Commission on 20 July 1993)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas under Council Regulation (EEC) No 386/90 of 12 February 1990 on the monitoring carried out at the time of export of agricultural products receiving refunds or other amounts ⁽¹⁾ the Commission must present to the Council a report on the progress of the application of the Regulation;

Whereas it is clear from this report and from the additional report that the lack of flexibility of some of the rules could hamper improvements in the effectiveness of the checks; whereas better use could be made of risk analysis if the inspection services had greater leeway for targeting their checks;

Whereas the obligation to comply with the inspection rate of 5 % per product per customs office makes it more difficult to concentrate human resources on high risk exports;

Whereas, while keeping the overall inspection rate at 5 %, it is possible to introduce some flexibility into the Regulation so as to enable the inspection services to target their checks on more sensitive products;

Whereas, in order to mitigate the risk of substitution, particularly in the case of export declarations presented and accepted within the Member State or at the premises of the exporter, provision must be made for the imposition of a minimum rate of physical checks by means of random sampling by the office of exit;

Whereas, in view of the need to ensure effective application throughout the Community of the provisions concerning checks on export refunds and financial risks for the Community funds, rules must be adopted at Community level,

HAS ADOPTED THIS REGULATION:

Article 1

Article 3 (2) of Regulation (EEC) No 386/90 is hereby replaced by the following:

'2. In accordance with the detailed rules to be determined under the procedure referred to in Article 6, the rate mentioned in paragraph 1 (b) shall apply:

- per customs office,
- per calendar year and
- per product sector.

However, the inspection rate of 5 % per product sector may be replaced by a rate of 5 % covering all sectors insofar as the Member State applies a selection system based on a risk analysis carried out in accordance with criteria to be laid down. In this case, a minimum rate of 2 % shall be compulsory per product sector.

In addition, in the case of export declarations accepted by an internal customs office, a minimum rate of physical checks may be carried out by means of representative sampling by each customs office of exit. The minimum checking rate shall be determined in accordance with the procedure laid down in Article 6.'

Article 2

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

It shall apply from the calendar year following that of its publication.

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

⁽¹⁾ OJ No L 42, 16. 2. 1990, p. 6.