

COMMISSION REGULATION (EEC) No 2729/81

of 14 September 1981

laying down special rules implementing the system of import and export licences and the advance fixing of refunds in respect of milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by the Act of Accession of Greece, and in particular Articles 13 (3) and 17 (4) thereof,

Whereas rules implementing the system of import and export licences and advance fixing of refunds in respect of milk and milk products were laid down by Commission Regulation (EEC) No 2044/75 ⁽²⁾, as last amended by Regulation (EEC) No 3474/80 ⁽³⁾; whereas this Regulation has been amended on numerous occasions; whereas for the sake of clarity and efficient administration it should be consolidated, the special rules for certain products harmonized and the licence security rates adjusted;

Whereas experience of advance fixing of refunds in the milk and milk products sector has, moreover, revealed the need for an improvement in the decision mechanisms operating when the refund is altered; whereas the examination of given situations and decision-making will be facilitated and can proceed more smoothly if the exact quantities in respect of which applications for advance fixing at the rate of refund then current have been made known by the Commission and the Member States as represented on the Management Committee, without the risk of increases as a result of the applications lodged, perhaps for speculative reasons, on the actual day of the deliberations in question; whereas on the day on which these deliberations normally take place there should therefore be no advance fixing of refunds and the rules in question should be supplemented accordingly;

Whereas experience indicates that the interested parties should have a list of agencies which alone are entitled to issue, for the milk and milk products sector, invitations to tender within the meaning of Article 43 of Commission Regulation (EEC) No 3183/80 of 3 December 1980 laying down common detailed rules for the application of the system of import and export

licences and advance-fixing certificates for agricultural products ⁽⁴⁾;

Whereas the provisions of this Regulation either supplement or derogate from the provisions of Regulation (EEC) No 3183/80;

Whereas the Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL RULES CONCERNING IMPORT AND EXPORT LICENCES

Article 1

1. The amount of the security in respect of import and export licences shall be, per 100 kilograms net of the product:

- 1.00 ECU for products falling within heading No 04.01 of the Common Customs Tariff,
- 3.00 ECU for products falling within heading No 04.04 of the Common Customs Tariff,
- 4.00 ECU for products falling within heading No 04.03 of the Common Customs Tariff,
- 2.00 ECU for the other products listed in Article 1 of Regulation (EEC) No 804/68.

2. No security need be lodged, however, in respect of export licences as referred to in Article 6 (1).

Article 2

By way of derogation from the third indent of Article 5 (1) of Regulation (EEC) No 3183/80, an import or export licence shall not be required and may not be presented for operations involving quantities not exceeding:

- 500 kg in the case of products falling within heading Nos 04.03 or 04.04 of the Common Customs Tariff,
- 1 000 kg in the case of the other products listed in Article 1 of Regulation (EEC) No 804/68.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 213, 11. 8. 1975, p. 15.

⁽³⁾ OJ No L 363, 31. 12. 1980, p. 50.

⁽⁴⁾ OJ No L 338, 13. 12. 1980, p. 1.

TITLE II

SPECIAL RULES CONCERNING IMPORT LICENCES

Article 3

The following special rules shall apply to the import licence to be presented under Article 13 (1) of Regulation (EEC) No 804/68 on any importation into the Community of the products listed in Article 1 thereof:

1. An import licence shall be valid from its date of issue within the meaning of Article 21 (1) of Regulation (EEC) No 3183/80 until the end of the second month following that of issue.
2. For products falling within subheadings of the Common Customs Tariff defined by reference to a price in ECU, the applicant may, in his application for an import licence, indicate two subheadings defined by reference to the same value.

The two subheadings indicated on the application shall also be indicated on the licence itself.

TITLE III

SPECIAL RULES CONCERNING EXPORT LICENCES

Section 1

General provisions

Article 4

1. Presentation of an export licence shall be required for the export from the Community of products listed in Article 1 of Regulation (EEC) No 804/68 for which a refund is fixed in advance.
2. Presentation of an export licence shall be required for the export from the Community of products falling within subheading 04.02 A II b) and heading No 04.03 of the Common Customs Tariff in cases where there is no advance fixing of the refund.
3. The application for an export licence and the licence itself shall state in section 13 the country of destination or the special destination within the meaning of Article 5 of Regulation (EEC) No 2730/79.

Article 5

Where the Annex to the Regulation fixing the refunds refers to subheadings not included in the Common Customs Tariff, the application for a licence and the export licence itself shall contain in section 7 a description of the product, in accordance with the said Annex, and 'ex' shall precede the Common Customs Tariff subheading in section 8.

The licence shall be valid only for the product so described.

Section 2

Export licences without advance fixing of the refund

Article 6

1. Where an export licence without advance fixing of the refund relates to a product falling within subheading 04.02 A II or heading No 04.03 of the Common Customs Tariff that is to be exported under a Regulation that precludes the granting of a refund, in particular in the context of food aid, the application for the licence and the licence itself shall, in section 12, refer to the Regulation concerned, using one of the following forms of wording:

- 'Særlig udførsel (forordning (EØF) nr.)',
- 'Sonderausfuhr (Verordnung (EWG) Nr.)',
- 'Ειδική εξαγωγή (κανονισμός (ΕΟΚ) αριθ.)',
- 'Special export (Regulation (EEC) No)',
- 'Exportation spéciale (règlement (CEE) n°)',
- 'Esportazione speciale (regolamento (CEE) n. ...)',
- 'Bijzondere uitvoer (Verordening (EEG) nr.)'.

2. The licences referred to in paragraph 1 shall:

- (a) include, in section 18a, one of the following forms of wording:
 - 'Eksporteres uden restitution',
 - 'Ausfuhr ohne Erstattung',
 - 'Πρός εξαγωγή χωρίς επιστροφή',
 - 'To be exported without refund',
 - 'À exporter sans restitution',
 - 'Da esportare senza restituzione',
 - 'Uitvoer zonder restitutie'.
- (b) be valid only in respect of an export to be carried out under the Regulation referred to in section 12.

Article 7

Export licences without advance fixing of the refund shall be valid from their date of issue within the meaning of Article 21 (1) of Regulation (EEC) No 3183/80 until the end of the second month following that of issue.

Section 3

Export licences with advance fixing of the refund*Article 8*

1. For the products listed in Article 1 of Regulation (EEC) No 804/68, the refund shall be fixed in advance on request. However, refunds may not be fixed in advance for exports of the products listed in Annex I to the destinations listed therein.

2. In addition to the provisions referred to in the first subparagraph of Article 14 (2) of Regulation (EEC) No 3183/80, applications for export licences with advance fixing of the refund in respect of any of the products referred to in Article 1 of Regulation (EEC) No 804/68 and which are lodged, in accordance with Article 14 of Regulation (EEC) No 3183/80, on a Thursday shall be regarded as having been lodged on the first working day after the Thursday in question.

Article 9

Export licences issued with advance fixing of the refund shall, without prejudice to the provisions of Article 15, be valid from their day of issue within the meaning of Article 21 (1) of Regulation (EEC) No 3183/80 until the end of the period specified in Annex II for the product in question.

However, in particular cases, a special period of validity may be fixed.

Article 10

1. Export licences with advance fixing of the refund for products falling within subheading 04.02 A II b) and heading No 04.03 of the Common Customs Tariff shall only be issued on the fifth working day following the day on which the application is lodged, in so far as special measures are not taken in the intervening period.

2. By way of derogation from Article 9 (1) of Regulation (EEC) No 3183/80, the rights arising from an export licence with advance fixing of the refund for products falling within subheading 04.02 A II b) and heading No 04.03 of the Common Customs Tariff shall not be transferable.

Article 11

1. Where the refund for a product may, in accordance with Annex I, be fixed in advance in respect of certain destinations only, the issue of a licence with advance fixing of the refund shall entail the obligation to export to a destination other than those listed in Annex I.

2. Further, where in accordance with Annex I, advance fixing, whether for all destinations or for certain destinations only, is restricted to certain of the products falling within a subheading of the Common Customs Tariff, the application for a licence and the licence itself shall contain in section 7 the description of the products qualifying for advance fixing and in section 8 the Common Customs Tariff subheading preceded by 'ex'.

The licence shall be valid only for the product so described.

3. Where, under Annex II, a compulsory destination determines the period of validity of a licence, an export licence issued for the relevant product but not showing the compulsory destination shall carry with it the obligation to export to a destination other than the compulsory destination.

Article 12

For the purposes of adjusting a refund fixed in advance when the period of validity of an export licence with advance fixing of the refund is extended in accordance with Article 37 of Regulation (EEC) No 3183/80 on grounds of *force majeure*, exportation shall be regarded as having taken place on the last day of the original period of validity.

Article 13

1. With regard to products falling within subheading 04.02 B of the Common Customs Tariff, the export licence may, at the request of the applicant, be issued either:

- in respect of one only of the two components referred to in Article 2 (1) of Regulation (EEC) No 1098/68, or
- in respect of both these components.

2. Where the first indent of paragraph 1 is applied, there shall be entered in section 12 of the application for a licence and of the licence itself one of the following forms of wording, as appropriate:

- 'Forudfastsættelse for mælkeelementet',
- 'Voraussetzung beschränkt auf den Teilbetrag für Milch',

- ‘Προκαθορισμός περιοριζόμενος μόνο στο στοιχείο γάλα’,
 - ‘Advance fixing in respect of milk component only’,
 - ‘Fixation à l’avance limitée à l’élément lait’,
 - ‘Fissazione in anticipo limitata all’elemento latte’,
 - ‘Vaststelling vooraf beperkt tot het element melk’,
- or
- ‘Forudfastsættelse for sukkelementet’,
 - ‘Vorausfestsetzung beschränkt auf den Teilbetrag für Zucker’,
 - ‘Προκαθορισμός περιοριζόμενος μόνο στο στοιχείο ζάχαρη’,
 - ‘Advance fixing in respect of sugar component only’,
 - ‘Fixation à l’avance limitée à l’élément sucre’,
 - ‘Fissazione in anticipo limitata all’elemento zucchero’,
 - ‘Vaststelling vooraf beperkt tot het element suiker’.

TITLE IV

SPECIAL RULES IN CASES OF ADVANCE FIXING OF THE REFUND IN CONNECTION WITH AN INVITATION TO TENDER

Article 14

For the purposes of the application of Article 43 of Regulation (EEC) No 3183/80 to the products referred to in Article 1 of Regulation (EEC) No 804/68:

- (a) open invitations to submit tenders by a given date can be regarded as such only where they:
- are issued by public agencies or bodies governed by public law set out on a list to be drawn up in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68,
 - are addressed to an unlimited number of exporters, in particular by publication, and
 - specify the period within which the goods must be delivered and the date and, if fixed, the time by which tenders must be lodged;
- (b) the provisions laid down in Articles 15 and 16 below shall apply.

Article 15

1. In the case of exports in connection with an invitation to tender issued by one of the agencies referred to in Article 14, the export licence with advance fixing of

the refund shall be valid from its date of issue within the meaning of Article 21 (1) of Regulation (EEC) No 3183/80 until the date when the obligations arising from the invitation to tender concerned must be complied with.

However, the period of validity of the licence shall not exceed the period laid down in Annex III.

2. The special measures referred to in Article 10 (1) shall not prevent issue of the export licences referred to in this Article unless they are applicable not later than the fifth working day following the day on which the licence application was lodged.

3. Notwithstanding the second subparagraph of Article 43 (2) of Regulation (EEC) No 3183/80, the time limit within which an applicant for the licence must inform the issuing agency of the results of the invitation to tender, or provide proof that the time limit for tenders has been extended, is hereby fixed at 40 days after the time limit for submission of tenders.

Article 16

1. Where the conditions of an invitation to tender issued by armed forces stationed in the territory of a Member State but not coming under its flag fix only approximately the quantity of milk or milk products to be supplied, since the quantity that will in fact be supplied can be determined only at the end of the delivery period provided for in the invitation to tender, the licence including advance fixing of the refund shall be issued for the quantity (hereinafter called the ‘target quantity’) fixed approximately under the terms of the invitation to tender. In such cases, one of the following shall be entered in section 12 of the application for a licence and of the licence itself:

- ‘Anslået mængde’,
- ‘Richtmenge’,
- ‘Ενδεικτική ποσότητα’,
- ‘Target quantity’,
- ‘Quantité indicative’,
- ‘Quantità indicativa’,
- ‘Geschatte hoeveelheid’.

The licence may be used only up to that quantity.

The obligation to export shall be fulfilled when the quantity (hereinafter called, the ‘definitive quantity’) fixed for supply by the agency inviting tenders has been exported. The parties concerned shall submit the relevant evidence to the agency which issued the licence.

2. In cases where the quantity for export proves greater than the target quantity, the agency which issued

the original licence shall at the request of the party concerned issue one or more supplementary licences.

The supplementary licence shall contain the same details as the original licence, except with regard to the quantity and the date of issue. In addition, section 2 shall contain one of the following forms of wording:

‘Ekstra licens’,

‘Zusatzlizenz’,

‘Συμπληρωματικό πιστοποιητικό’,

‘Supplementary licence’,

‘Certificat complémentaire’,

‘Titolo complementare’,

‘Aanvullend certificaat’.

3. Where the definitive quantity is less than the target quantity as indicated in the original licence and in any supplementary licence or licences, the security corresponding to the balance shall be released.

4. The provisions of the first subparagraph of Article 33 (3) and the second and third subparagraphs of Article 43 (2) of Regulation (EEC) No 3183/80 shall not apply in respect of licences as referred to in this Article.

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

Done at Brussels, 14 September 1981.

TITLE V

FINAL PROVISIONS

Article 17

1. Regulation (EEC) No 2044/75 is hereby repealed.
2. All references in Community instruments to Articles of Regulation (EEC) No 2044/75 shall be treated as references to the corresponding Articles of this Regulation.
3. However, Regulation (EEC) No 2044/75 shall continue to apply to licences applied for before the day of application of this Regulation.

Article 18

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

It shall apply with effect from 1 November 1981.

For the Commission

Poul DALSGER

Member of the Commission

ANNEX I

List of products and destinations for which refunds may not be fixed in advance

CCT heading No	Description	Destination
04.04		Austria, Zone D, Ceuta, Melilla, Andorra
ex 04.04 E 1 b) 5	Butterkäse, Danbo, Edam, Elbo Esrom, Fontal, Fontina, Fynbo, Galantine, Gouda, Havarti, Italice, Maribo, Molbo, Mimolette, Samsø, Saint-Paulin, Tilsit, Tybo and other cheeses of a minimum fat content of 30% by weight, in the dry matter, and of a water content, calculated by weight, of the non-fatty matter exceeding 52% but not exceeding 67%.	Liechtenstein, Switzerland

ANNEX II

Period of validity of export licences with advance fixing of the refund

Period of validity	CCT heading No	Description	Compulsory destination ⁽¹⁾
(a) 30 days	04.04	Cheese and curd	Zone E and Canada
(b) Until the end of the sixth month following that of issue		Other products specified in Article 1 of Regulation (EEC) No 804/68	—

⁽¹⁾ See Article 11 (3). However, where Annex I excludes advance fixing of the refund for certain products and destinations, the issue of an export licence for such products shall make it obligatory to export to a destination other than that indicated in Annex I.

ANNEX III

Maximum period of validity of export licences issued in connection with an invitation to tender

Maximum period of validity	Description of product (CCT heading No)	Comments
(a) Until the end of the 13th month following that of issue	The products listed in Article 1 of Regulation (EEC) No 804/68	Excluding the exports covered by (b)
(b) Until the end of the 18th month following that of issue	Any products specified in Article 1 of Regulation (EEC) No 804/68 exported in connection with an invitation to tender issued by the armed forces (Article 16 (1) of this Regulation)	