

COMMISSION REGULATION (EC) No 1517/95

of 29 June 1995

laying down detailed rules for the application of Regulation (EEC) No 1766/92 as regards the arrangements for the export and import of compound feedingstuffs based on cereals and amending Regulation (EC) No 1162/95 laying down special detailed rules for the application of the system of import and export licences for cereals and rice

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 organization of the market in cereals⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden and by Regulation (EC) No 3290/94⁽²⁾, and in particular Articles 10 (4), 11 (4), 13 (11) and 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice⁽³⁾, as last amended by Regulation (EC) No 3290/94, and in particular Articles 13 (4), 14 (16) and 17 thereof,

Whereas, depending on its composition, prepared animal fodder under CN code 2309 falls within the scope of Regulation (EEC) No 1766/92 or Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products⁽⁴⁾, as last amended by the Act of Accession of Austria, Finland and Sweden and by Regulation (EC) No 3290/94; whereas, in the case of those products falling within the scope of Regulation (EEC) No 1766/92, import levies are replaced by import duties from 1 July 1995;

Whereas Article 9 of Regulation (EEC) No 1766/92 requires submission of an import or export licence for the products listed in Article 1 of that Regulation, which include preparations of the types used for animal feed;

Whereas Article 13 of Regulation (EEC) No 1766/92 provides for an export refund to be granted in respect of the goods listed in Annex A to that Regulation; whereas the main object of the refund is to compensate for the difference between the prices of the basic products in the Community and those on the world market; whereas

general rules for the granting of that refund should be laid down;

Whereas, for the purpose of paying the refund, only those products, the quantities of which incorporated in the compound feedingstuff and their features are truly representative of the substance of the cereal-based feedingstuff in question, that is, cereals, cereal flour and unprepared products derived from the grinding and treatment of cereals should be taken into consideration, to the exclusion of other products whose inclusion in feedingstuffs of this type is complementary or marginal;

Whereas the amount of the refund relating to these various cereal products should take particular account of the difference between prices on the world market and those on the Community market for basic cereals, i.e. maize, wheat and barley;

Whereas adjustment of refunds fixed in advance should take account of the factors on which the refund was based; whereas that adjustment should take account of the content in cereal products;

Whereas Commission Regulation (EEC) No 1913/69 of 29 September 1969 on the granting and advance fixing of export refunds on cereal-based compound feedingstuffs⁽⁵⁾, as last amended by Regulation (EC) No 1707/94⁽⁶⁾, and Commission Regulation (EEC) No 1619/93 of 25 June 1993 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 regarding the arrangements applicable to cereal-based feedingstuffs⁽⁷⁾ should be repealed from 1 July 1995; whereas this Regulation takes over the provisions of those Regulations and adapts them to the present market situation and implementation of the agreements reached as part of the Uruguay Round of multilateral trade negotiations;

Whereas, since Article 5 (2) of Commission Regulation (EEC) No 891/89⁽⁸⁾, as last amended by Regulation (EC) No 1043/95, was incorporated into Article 4 (2) of Commission Regulation (EC) No 1162/95 of 23 May 1995

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽⁴⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽⁵⁾ OJ No L 246, 30. 9. 1969, p. 11.

⁽⁶⁾ OJ No L 180, 14. 7. 1994, p. 19.

⁽⁷⁾ OJ No L 155, 26. 6. 1993, p. 24.

⁽⁸⁾ OJ No L 94, 7. 4. 1989, p. 13.

laying down special detailed rules for the application of the system of import and export licences for cereals and rice^(*), that Regulation should be amended to permit the issue of licences in accordance with Article 9 of Regulation (EEC) No 1766/92;

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

HAS ADOPTED THIS REGULATION:

TITLE I

Refunds

Article 1

1. Export refunds for products falling within CN codes 2309 10 11, 2309 10 13, 2309 10 31, 2309 10 33, 2309 10 51, 2309 10 53, 2309 90 31, 2309 90 33, 2309 90 41, 2309 90 43, 2309 90 51 and 2309 90 53 and listed in Annex A to Regulation (EEC) No 1766/92, hereinafter referred to as 'cereal-based compound feedingstuffs', shall be fixed in accordance with this Regulation.

2. Cereal-based compound feedingstuffs shall be classified under the CN codes in Annex I.

Article 2

1. During a given month, the export refund which may be granted on cereal-based compound feedingstuffs shall be fixed per tonne of each cereal contained in the compound feedingstuffs, taking account of the following criteria:

- (a) the average of the refunds granted during the previous month for the most commonly used basic cereals, adjusted on the basis of the increase for the current month;
- (b) the average of the import duties for the most commonly used basic cereals;
- (c) outlets and conditions of sale for the products in question on the world market;
- (d) the need to avoid disturbances on the Community market;
- (e) the economic aspects of the exports concerned.

2. The refunds shall be fixed at least once a month.

Article 3

1. Where necessary, the refund shall be adjusted in accordance with Article 12 of Regulation (EC) No 1162/95. The adjustment shall be made by increasing or

decreasing the refund by the amount resulting from each of the adjustments referred to in paragraphs 1 and 2 of Article 12 of Regulation (EC) No 1162/95, per tonne of cereal product incorporated in the compound feedingstuff. Where necessary, the refund may also be adjusted in the light of the price of milk powder for the month of exportation.

A corrective factor for this product is fixed to take account of the amount of aid granted for milk powder for use in animal feed during the month of exportation.

2. For the purposes of the application of Article 13 (8) of Regulation (EEC) No 1766/92, the amount zero shall not be considered to be a refund and consequently the adjustment referred to in Article 12 (3) of Regulation (EC) No 1162/95 shall not apply.

Article 4

1. The exporter shall notify the competent authorities no later than the point at which customs formalities are completed of the total composition of the cereal-based compound feedingstuff, specifying the percentage of each type of product incorporated by position in the nomenclature of agricultural products for export refunds and the exact quantity of maize and other cereals.

2. The Member States shall take all the steps required to ensure the accuracy of the declaration.

Article 5

The Member States shall notify the Commission, each day before 3 p.m. (Brussels time), of the quantities of cereal-based compound feedingstuffs in respect of which licences have been applied for.

This notification shall distinguish between applications with export refund or export tax and applications without refund.

The notification shall also state the maximum quantities of cereals incorporated in the compound feedingstuffs as shown on the applications for export licences.

TITLE II

Shortage penalty clause

GENERAL PROVISIONS

Article 6

1. Where, for one or more products, the conditions referred to in Article 16 of Regulation (EEC) No 1766/92 and in Article 17 of Regulation (EEC) No 1418/76 are met, the following measures may be taken by the Commission:

- (a) application of an export tax. This tax shall be fixed by the Commission once per week. It may be varied depending on the destination;

^(*) OJ No L 106, 11. 5. 1995, p. 8.

- (b) total or partial suspension of the issuing of export licences ;
- (c) total or partial rejection of pending export licence applications.

2. The export tax referred to in paragraph 1 (a) shall be that applicable on the day on which customs formalities are completed.

However, at the request of the applicant, submitted at the same time as the licence application, the export tax applicable on the day of lodging of the licence application shall apply to an export operation to be carried out during the period of validity of the licence.

3. The Commission shall notify the Member States of its decision and publish it.

Article 7

For the purposes of calculating the refund, the content in milk products of cereal-based compound feedingstuffs may be determined by multiplying the lactose content of each tonne of product concerned by 2.

Article 8

Where, for the purposes of applying this Regulation to either imports or exports, the starch or lactose content has to be determined, analytic methods shall be determined, for starch in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 and for lactose in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68.

Article 9

Article 4 (2) of Regulation (EC) No 1162/95 is hereby replaced by the following :

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

Done at Brussels, 29 June 1995.

'2. Notwithstanding Article 13a of Regulation (EEC) No 3719/88, for products falling within CN codes 2309 10 11, 2309 10 13, 2309 10 31, 2309 10 33, 2309 10 51, 2309 10 53, 2309 90 31, 2309 90 33, 2309 90 41, 2309 90 43, 2309 90 51 and 2309 90 53 containing less than 50 % by weight of milk products, export licence applications shall show :

- in Section 15, the description of the product and its eight-digit code ; in the case of products falling within two or more adjacent subdivisions, the exporter may show the 11-digit refund nomenclature,
- in Section 16, the reference "2309",
- in Sections 17 and 18, the quantity of compound feedingstuffs which must be exported,
- in Section 20, the content in cereal products to be incorporated in the compound feedingstuff if this is known, a distinction being made between maize and other cereals ; otherwise, if use is made of the provision referred to above of annotating Section 15, the bracket showing the quantities of maize and other cereals incorporated.

The details included on applications shall be shown on the export licences.'

Article 10

Regulations (EEC) No 1913/69 and (EEC) No 1619/93 are hereby repealed from 1 July 1995. However, they shall continue to apply to licences issued before 1 July 1995.

Article 11

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

It shall apply to certificates issued from 1 July 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

CN code	Description of goods
2309	Preparations of a kind used in animal feeding :
ex 2309 10	– Dog or cat food, put up for retail sale :
	– – Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup falling within subheadings 1702 30 51 to 1702 30 99, 1702 40 90, 1702 90 50 and 2106 90 55 or milk products :
	– – – Containing starch, glucose, syrup, maltodextrine or maltodextrine syrup :
	– – – – Containing no starch or containing 10 % or less by weight of starch :
2309 10 11	– – – – – Containing no milk products or containing less than 10 % by weight of such products
2309 10 13	– – – – – Containing not less than 10 % but less than 50 % by weight of milk products
	– – – – – Containing more than 10 % but not more than 30 % by weight of starch :
2309 10 31	– – – – – Containing no milk products or containing less than 10 % by weight of such products
2309 10 33	– – – – – Containing not less than 10 % but less than 50 % by weight of milk products
	– – – – – Containing more than 30 % by weight of starch :
2309 10 51	– – – – – Containing no milk products or containing less than 10 % by weight of such products
2309 10 53	– – – – – Containing not less than 10 % but less than 50 % by weight of milk products
ex 2309 90	– – Other :
	– – – Other :
	– – – – Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup falling within subheadings 1702 30 51 to 1702 30 99, 1702 40 90, 1702 90 50 and 2106 90 55 or milk products :
	– – – – – Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup :
	– – – – – Containing no starch or containing 10 % or less by weight of starch :
2309 90 31	– – – – – Containing no milk products or containing less than 10 % by weight of such products
2309 90 33	– – – – – Containing not less than 10 % but less than 50 % by weight of milk products
	– – – – – Containing more than 10 % but not more than 30 % by weight of starch :
2309 90 41	– – – – – Containing no milk products or containing less than 10 % by weight of such products
2309 90 43	– – – – – Containing not less than 10 % but less than 50 % by weight of milk products
	– – – – – Containing more than 30 % by weight of starch :
2309 90 51	– – – – – Containing no milk products or containing less than 10 % by weight of such products
2309 90 53	– – – – – Containing not less than 10 % but less than 50 % by weight of milk products