



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 09.03.2004
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2004/0051 (CNS)

Proposal for a

COUNCIL REGULATION

**amending Regulations (EC) No 1452/2001, (EC) No 1453/2001 and (EC) No 1454/2001
as regards the conditions for the re-exportation and re-dispatch of products
covered by the specific supply arrangements**

(presented by the Commission)

EXPLANATORY MEMORANDUM

The purpose of Council Regulations (EC) Nos 1452/2001, 1453/2001 and 1454/2001 was to adopt specific measures for applying the CAP in the outermost regions (Azores and Madeira, French overseas departments and Canary Islands). These measures are aimed at improving the conditions in which agricultural products are produced and marketed in those regions, and at mitigating the effects of their exceptional geographical situation and constraints as recognised in Article 299(2) of the Treaty. In particular, specific supply arrangements entailing economic advantages were introduced with a view to guaranteeing supplies and mitigating the additional costs of the remoteness, insularity and outermost location of these regions.

In order to ensure that the economic advantages of the specific supply arrangements do not provoke diversions of trade in the products concerned, these Regulations prohibit the re-dispatch or re-exportation of those products from the outermost regions, with a few exceptions. Such a prohibition, and the strict conditions applicable to the exceptions, constitute constraints on the development of certain traders' economic activities. It is proposed that the dispatch or exportation of the products concerned should be authorised after the economic advantage has been reimbursed.

Regulation (EC) No 1453/2001 stipulates that the prohibition on re-dispatching and re-exporting the products concerned will not apply to trade flows between the Azores and Madeira. This provision allows trade to be conducted between the Azores and Madeira without any distinction being made between processed and unprocessed products. It has led to sugar from Madeira covered by the specific supply arrangements being the subject of speculative dealing in the Azores, where the market is facing difficulties. It is proposed that such trade in products covered by the specific arrangements for supplies from the Azores to Madeira or vice versa be restricted to processed products alone.

Proposal for a

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**amending Regulations (EC) No 1452/2001, (EC) No 1453/2001 and (EC) No 1454/2001
as regards the conditions for the re-exportation and re-dispatch of products
covered by the specific supply arrangements**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36, 37(2) and 299(2) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas:

- (1) Council Regulation (EC) No 1452/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the French overseas departments, amending Directive 72/462/EEC and repealing Regulations (EEC) No 525/77 and (EEC) No 3763/91 (POSEIDOM)³, Council Regulation (EC) No 1453/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Azores and Madeira and repealing Regulation (EEC) No 1600/92 (POSEIMA)⁴, and Council Regulation (EC) No 1454/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Canary Islands and repealing Regulation (EEC) No 1601/92 (POSEICAN)⁵ prohibit the re-exportation and re-dispatch of products covered by specific supply arrangements, save in a few exceptional cases.
- (2) Regulations (EC) Nos 1452/2001 and 1453/2001 authorise exports of processed products to third countries in order to encourage regional trade and traditional consignments of processed products.
- (3) Regulation (EC) No 1454/2001 authorises traditional exports and consignments of processed products. It also authorises exports of products in their unprocessed state or products resulting from local packaging of such products, under certain conditions to

¹ OJ C [...] [...], p. [...]

² OJ C [...] [...], p. [...]

³ OJ L 198, 21.7.2001, p. 11. Regulation amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

⁴ OJ L 198, 21.7.2001, p. 26. Regulation last amended by Regulation (EC) No 55/2004 (OJ L 8, 14.1.2004, p. 1).

⁵ OJ L 198, 21.7.2001, p. 45. Regulation last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

be laid down by the Commission, including reimbursement of aid or payment of import duties.

- (4) In order to allow economic activity to be developed in the outermost regions, the exportation or dispatch of products covered by specific supply arrangements should be authorised after the aid has been reimbursed or import duties have been paid, except in the case of trade in unprocessed products between the Azores and Madeira, which has resulted in speculative dealing where certain products are concerned.
- (5) Regulations (EC) Nos 1452/2001, 1453/2001 and 1454/2001 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The first subparagraph of Article 3(5) of Regulation (EC) No 1452/2001 is hereby replaced by the following:

"Products covered by the specific supply arrangements may be re-exported to third countries or re-dispatched to the rest of the Community only on the conditions laid down by the Commission under the procedure referred to in Article 23(2). These conditions shall include in particular reimbursement of the aid received under the specific supply arrangements for the products referred to in paragraph 2 or payment of import duties on the products referred to in paragraph 1. This restriction shall not apply to trade flows between the FOD."

Article 2

Article 3(5) of Regulation (EC) No 1453/2001 is hereby replaced by the following:

- "5. Products covered by the specific supply arrangements may be re-exported to third countries or re-dispatched to the rest of the Community only on the conditions laid down by the Commission under the procedure referred to in Article 35(2). These conditions shall include in particular reimbursement of the aid received under the specific supply arrangements for the products referred to in paragraph 2 or payment of import duties on the products referred to in paragraph 1.

The restriction referred to in the first subparagraph shall not apply to products which are processed in the regions of the Azores or Madeira and contain raw materials covered by the special supply arrangements, where those products:

- (a) are exported in the context of traditional exports or regional trade from the Azores or Madeira to third countries, or
- (b) are dispatched in the context of:
 - (i) traditional consignments from the Azores or Madeira to the rest of the Community, or
 - (ii) trade flows between the Azores and Madeira.

No export refund shall be granted for the products referred to in the second subparagraph."

Article 3

Article 3(5) of Regulation (EC) No 1454/2001 is hereby replaced by the following:

"5. Products covered by the specific supply arrangements may be re-exported to third countries or re-dispatched to the rest of the Community only on the conditions laid down by the Commission under the procedure referred to in Article 21(2). These conditions shall include in particular reimbursement of the aid received under the specific supply arrangements for the products referred to in paragraph 2 or payment of import duties on the products referred to in paragraph 1.

The restriction referred to in the first subparagraph shall not apply to traditional exports or traditional consignments to the rest of the Community of products processed from the products in question in the Canary Islands.

No export refund shall be granted for the products referred to in the second subparagraph."

Article 4

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

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

Done at Brussels,

For the Council
The President

FINANCIAL STATEMENT

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1. BUDGET HEADING: 05 02 11 04		APPROPRIATIONS: €249 million		
2. TITLE: Council Regulation amending Regulations (EC) No 1452/2001, (EC) No 1453/2001 and (EC) No 1454/2001 as regards the conditions for the re-exportation and re-dispatch of products covered by the specific supply arrangements				
3. LEGAL BASIS: Articles 36, 37(2) and 299(2) of the EC Treaty				
4. AIMS: To prevent speculative dealing in products covered by the special supply arrangements.				
5. FINANCIAL IMPACT	12-MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR 2004 (EUR million)	FOLLOWING FINANCIAL YEAR 2005 (EUR million)	
5.0 EXPENDITURE CHARGED TO – THE EC BUDGET (REFUNDS/INTERVENTIONS) – NATIONAL AUTHORITIES – OTHER	p.m.	p.m.	p.m.	
5.1 REVENUE – EC OWN RESOURCES (LEVIES/CUSTOMS DUTIES) – NATIONAL	–	–	–	
	2006	2007	2008	2009
5.0.1 ESTIMATED EXPENDITURE	p.m.	p.m.	p.m.	p.m.
5.1.1 ESTIMATED REVENUE	–	–	–	–
5.2 METHOD OF CALCULATION: –				
6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?				YES / NO
6.1 CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?				YES / NO
6.2 WILL A SUPPLEMENTARY BUDGET BE NECESSARY?				YES / NO
6.3 WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?				YES / NO
OBSERVATIONS: The measure could entail slight savings as a result of the aid being repaid in the event of re-dispatch. However, they cannot be calculated at present.				