COMMISSION REGULATION (EC) No 1466/95

of 27 June 1995

laying down special detailed rules of application for export refunds on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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 Austria, Finland and Sweden and by Regulation (EC) No 3290/94 [2], and in particular Article 17 (14) thereof,

Whereas, pursuant to the Agricultural Agreement concluded during the Uruguay Round of the GATT trade negotiations (hereinafter referred to as the 'Agreement'), export refunds on agricultural products, including milk products, are issued within each twelve-month period from 1 July 1995 up to a maximum quantity and a maximum value ; whereas, in order to ensure compliance with those limits, the issue of export licences must be monitored ; procedures must also be adopted for allocating the quantities which may be exported with a refund ;

Whereas Regulation (EEC) No 804/68 lays down the general rules for the granting of export refunds in the milk and milk products sector, in order, in particular, to permit the monitoring of the value and quantity limits for refunds ; whereas detailed rules for the application of those arrangements must be laid down ;

Whereas, notwithstanding Commission Regulation (EEC) No 3665/87 [3] of 27 November 1987 laying down common detailed rules for the application of the system of export refunds on agricultural products, as last amended by Regulation (EC) No 331/95 [4], cases where a refund may be granted without presentation of an export licence should be defined and the maximum time that products may remain under customs control should be specified ;

Whereas special provisions should be adopted for the milk and milk products sector, notwithstanding Commission Regulation (EEC) No 3719/88 [5], as last amended by Regulation (EC) No 1199/95 [6], concerning, in particular, licences ; whereas, in addition, the tolerance permitted by that Regulation as regards the quantity of goods exported compared with the quantity indicated on the licence should be reduced and, in order to ensure effective exceeding that indicated on the licence ; whereas the securities to be lodged when licence applications are submitted should be sufficient to prevent speculative applications ;

Whereas, in order to ensure accurate checking of products exported and to minimize the risk of speculation, the possibility of changing a product for which a licence has been issued should be restricted and penalties should be laid down for cases where the composition of the product does not conform to the description ;

Whereas, to enable traders to participate in invitations to tender opened by third countries without affecting the restrictions as regards volume, a system of provisional licences should be introduced giving successful tenderers the right to a full licence ;

Whereas, in order to ensure effective monitoring of licences issued, which depends on the notification of information to the Commission by the Member States, a delay of five working days should be provided for before the issue of licences ; whereas, in order to ensure the smooth operation of the arrangements and, in particular, an equitable allocation of the quantities available within the limits laid down by the Agreement, various rules on administration should be laid down and, in particular, provision should be made for the issue of licences to be suspended and for a reduction coefficient to be applied to the quantities applied for ;

Whereas the method for fixing the refund on milk products containing added sugar, the price of which is determined by the price of the ingredients, should be laid down according to the percentage of the ingredients contained therein ;

Whereas the risk of a break in export should be averted and provision should accordingly be made for licences, valid from 1 July 1995 to be issued before that date ;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

[1] OJ No L 148, 28. 6. 1968, p. 13.
[2] OJ No L 349, 31. 12. 1994, p. 105.
[3] OJ No L 351, 14. 12. 1987, p. 1.
[4] OJ No L 38, 18. 2. 1995, p. 1.
[5] OJ No L 331, 2. 12. 1988, p. 1.
[6] OJ No L 119, 30. 5. 1995, p. 4.

HAS ADOPTED THIS REGULATION:

Article 1

1. Exports from the Community of products listed in Article 1 of Regulation (EEC) No 804/68 for which an export refund is requested shall be subject to the presentation of an export licence. The refund to be paid shall be that applicable on the day the licence application is lodged.

2. Section 7 of the licence application and of the licence itself shall show the code number of the country of destination as referred to in the Annex to Commission Regulation (EC) No 3079/94 [1].

3. Licence applications lodged on a Thursday shall, pursuant to Article 15 of Regulation (EEC) No 3719/88, be deemed to have been lodged on the next working day.

Article 2

The refund shall be granted only on presentation of an export licence. Notwithstanding Article 2a of Regulation (EEC) No 3665/87 however, no licence shall be required:

— where the refund for an export declaration, calculated on the basis of the refund applicable on the first day of the month of export, is less than or equal to ECU 60,

— in the cases referred to in Articles 34, 38, 42, 43 and 44 (1) of Regulation (EEC) No 3665/87.

Article 3

1. Section 16 of the export licence application and of the licence itself shall show the eleven-figure product code for milk products in the agricultural product nomenclature for export refunds. The licence shall only be valid for the product so designated.

For products falling within CN codes 0402, 0403, 0404 and 0405, however, where the refund is identical for several codes within the same category, the code may be changed at the request of the trader concerned.

For the purposes of this Regulation, 'categories' means the following groups of products: butter and butteroil, skimmed milk powder, cheeses, other milk products.

2. Where the exported product does not conform to the description given in the licence but falls within the same CN code:

(a) where the refund applicable to the actual description is higher than that applicable to that indicated on the licence, the latter refund shall apply,

(b) where the refund applicable to the actual description is lower than that applicable to that indicated on the licence, Article 11 of Regulation (EEC) No 3665/87 shall apply.

Article 4

Export licences shall be valid from the day of issue, within the meaning of Article 21 (2) of Regulation (EEC) No 3719/88, until:

(a) the end of the third month following issue in the case of products falling within CN code 0406;

(b) the end of the fourth month following issue for the other products referred to in Article 1 of Regulation (EEC) No 804/68;

(c) the date by which the obligations rising under invitations to tender provided for in Article 6 must be fulfilled and by the end of the eighth month following issue of the full licence referred to in Article 6 (3) at the latest.

At the request of the trader concerned, however, the validity of the licence may be extended by one month for the products referred to in point (a), two months for those referred to in point (b) and by three months in the case referred to in point (c).

Article 5

Notwithstanding Articles 27 (5) and 28 (5) of Regulation (EEC) No 3665/87, the period during which the products referred to in Article 1 of Regulation (EEC) No 804/68 may remain covered by the arrangements provided for in Council Regulation (EEC) No 565/80 [2] shall be equal to the remainder of the term of validity of the export licence.

Article 6

1. In the case of an invitation to tender issued by one of the agencies referred to in the Annex to Commission Regulation (EEC) No 2730/81 [3], except for invitations to tender concerning products falling within CN code 0406, traders may apply for a provisional export licence for the quantity covered by their tender subject to the lodging of a security. The security for provisional licences shall be equal to 75 % of the rate fixed in Article 7.

2. Provisional licences shall be issued on the fifth working day following that on which the application is lodged, provided that the special measures referred to in Article 8 (3) are not adopted in the meantime.

3. Notwithstanding Article 44 (5) of Regulation (EEC) No 3719/88, the period of 21 days shall be replaced by 60 days. Before the end of that period, the trader shall apply for the full export licence, which shall be issued on presentation of proof that he has been awarded a contract.

[1] OJ No L 325, 17. 12. 1994, p. 17.

[2] OJ No L 62, 7. 3. 1980, p. 5.

[3] OJ No L 272, 26. 9. 1981, p. 25.

On presentation of proof that this tender has been rejected or that he has been awarded a contract for a quantity less than that indicated on the provisional licence, the whole or part of the security shall be released as appropriate.

4. Licence applications referred to in paragraphs 2 and 3 shall be made in accordance with Article 13 of Regulation (EEC) No 3719/88.

5. The provisions of this Regulation, with the exception of Article 8, shall apply to full licences.

Article 7

1. The security referred to in Article 14 (2) of Regulation (EEC) No 3719/88 shall, depending on the refund applicable on the day the export licence application is lodged, be :

(a) 5 % of the refund for products falling within CN codes 0402 10 and 0405 ;

(b) 20 % of the refund for products falling within CN code 0406 ;

(c) 10 % of the refund for other products.

2. Where the term of validity of the export licence is extended pursuant to the second paragraph of Article 4, the security fixed pursuant to paragraph 1 shall be increased by 30 %.

Article 8

1. Export licences shall be issued on the fifth working day following the day on which the application is lodged, provided that the special measures referred to in paragraph 3 are not adopted in the meantime.

2. Where :

(a) the issue of the licences applied for appears likely to result, in an overrun in the budgetary amounts available or in the exhaustion of the maximum quantities which may be exported with a refund during the twelve-month period in question in a shorter or in a shorter period to be determined pursuant to Article 9 ; or

(b) the issue of the licences applied for does not allow the continuity of exports to be guaranteed during the rest of the period concerned. In such cases, account shall be taken, as regards the product in question, of :

— the seasonal nature of trade, the market situation and in particular the trend in prices on the market and the export conditions resulting therefrom,

— the need to prevent speculative applications leading to distortion of competition between traders,

a decision may be taken to adopt one or more of the special measures provided for in paragraph 3.

3. In the cases referred to in paragraph 2 :

(a) the Commission may decide for the product or products in question :

— to suspend the issue of licences for a maximum of five working days,

— to apply a reduction coefficient to the quantities applied for.

Where a coefficient of less than 0,8 is applied to the quantities applied for, the party concerned may, within three working days of publication of the decision fixing the coefficient, request the cancellation of his licence application and the release of his security ;

(b) in accordance with the procedure provided for in Article 30 of Regulation (EEC) No 804/68, the Commission may decide :

— to suspend the issue of licences for the product or products concerned for a period exceeding five working days ;

— at the end of the period of suspension, to fix refunds by invitation to tender for products falling within CN codes 0402 10 19, 0405 00 90 and 0405 00 19. The relevant licences shall then be issued.

4. Licence applications submitted during the period of suspension shall not be admissible.

Article 9

Where the global quantity covered by licence applications submitted is such that there is a risk of early exhaustion of the maximum quantities which may be exported with a refund during the twelve-month period in question, the Commission may decide, in accordance with the procedure provided for in Article 30 of Regulation (EEC) No 804/68, to allocate those maximum quantities over periods to be determined.

Article 10

1. No refund shall be paid for the additional quantity exported within the tolerance referred to in Article 8 (4) of Regulation (EEC) No 3719/88.

One of the following forms of wording shall be entered in section 22 ('special conditions') of the licence :

— Restitución válida por ... (cantidad por la que se expida el certificado),

— Restitution gyldig for ... (den mængde, som licensen er udstedt for),

— Erstattung anwendbar für ... (Menge, für die die Lizenz erteilt wurde),

— Επιστροφή που ισχύει για ... (ποσότητα για την οποία εκδόθηκε το πιστοποιητικό),

— Refund valid for ... (quantity for which the licence is issued),

— Restitution valable pour ... (quantité pour laquelle le certificat est délivré),

— Restituzione valida per ... (quantitativo per cui è rilasciato il titolo),

— Restitutie geldig voor ... (hoeveelheid waarvoor het certificaat wordt afgegeven),

— Restituição válida para ... (quantidade em relação à qual é emitido o certificado),

— Tuki on voimassa ... (määrä, jolle todistus myönnetään),

— Bidrag giltigt för ... (den kvantitet som licensen är utfärdad för).

2. Notwithstanding Article 8 (5) of Regulation (EEC) No 3719/88, where the quantity exported falls no more than 2 % below the quantity indicated on the licence, the obligation to export shall be deemed to be fulfilled.

Article 11

Article 21 of Regulation (EEC) No 3665/87 shall only apply to licences issued:

— for products on which refunds vary according to destination,

— pursuant to the provisions referred to in Article 6 (3).

Article 12

1. For milk products containing added sugar, the refund shall be equal to the sum of the following components:

(a) a component representing the quantity of milk products;

(b) a component representing the quantity of added sucrose.

However, the latter component shall apply only if the added sucrose has been produced from beet or cane harvested in the Community.

2. For concentrated milk products containing added sugar with a fat content by weight lower than or equal to 9,5 %, the component referred to in paragraph 1 (a) shall be fixed per 100 kilograms of the whole product.

For other products referred to in paragraph 1, the component referred to in paragraph 1 (a) shall be calculated by multiplying the basic amount by the milk product content of the product in question.

The basic amount referred to in the preceding subparagraph shall be the refund on one kilogram of milk products contained in the product.

3. The component referred to in paragraph 1 (b) shall be calculated by multiplying the sucrose content of the whole product by the basic amount of the refund applicable on the day the licence application is lodged for the products listed in Article 1 (1) (d) of Council Regulation (EEC) No 1785/81 [1].

4. For the purposes of paragraph 1 (b), sucrose:

(a) imported into the Community under:

— Protocol No 3 on sugar annexed to the ACP-EEC Lomé Convention,

— the Agreement on sugar cane between the European Economic Community and the Republic of India; or

(b) obtained from products imported under the provisions referred to in subparagraph (a),

shall be treated as sucrose producted from beet or cane harvested in the Community.

Article 13

Regulations (EEC) No 3665/87 and (EEC) No 3719/88 shall apply subject to the provisions of this Regulation.

Article 14

Commission Regulations (EEC) No 1098/68 [2] and (EEC) No 2729/81 [3] are hereby repealed. They shall apply, however, to licences issued against applications lodged before 1 July 1995.

Article 15

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

It shall apply from 1 July 1995.

However, licences may be applied for under this Regulation as from its entry into force. In that case, notwithstanding the introductory part of Article 4, licences shall be valid from 1 July 1995 only and section 22 thereof shall bear one of the following forms:

— Certificado GATT utilizable a partir del 1 de julio de 1995,

— GATT-licens kan anvendes fra den 1. juli 1995,

— GATT-Lizenz, gültig ab 1. Juli 1995,

— Πιστοποιητικό της GATT το οποίο μπορεί να χρησιμοποιηθεί μετά την 1η Ιουλίου 1995,

— GATT licence valid from 1 July 1995,

— Certificat GATT utilisable à partir du 1er juillet 1995,

— Titolo GATT utilizzabile a partire dal 1° luglio 1995,

— GATT-certificaat op of na 1 juli 1995 te gebruiken,

— Certificado GATT utilizável a partir de 1 de Julho de 1995,

— GATT-todistus voimassa 1 päivästä heinäkuuta 1995,

— GATT-licens giltigt från och med den 1 juli 1995.

[1] OJ No L 177, 1. 7. 1981, p. 4.
[2] OJ No L 184, 29. 7. 1968, p. 10.
[3] OJ No L 272, 26. 9. 1981, p. 19.

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

Done at Brussels, 27 June 1995.

For the Commission
Franz FISCHLER
Member of the Commission