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REGULATION (EEC) No 204/69 OF THE COUNCIL

of 28 January 1969

laying down general rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and the criteria for fixing the amount of such refunds

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 120/67/EEC[1] of 13 June 1967 on the common organisation of the market in cereals, and in particular Articles 16 (5) and 17 (3) thereof;

Having regard to Council Regulation No 122/67/EEC[2] of 13 June 1967 on the common organisation of the market in eggs, and in particular the fourth subparagraph of Article 9 (2) and Article 10 (3) thereof;

Having regard to Council Regulation No 359/67/EEC[3] of 25 July 1967 on the common organisation of the market in rice, and in particular Articles 17 (5) and 18 (3) thereof;

Having regard to Council Regulation No 1009/67/EEC[4] of 18 December 1967 on the common organisation of the market in sugar, and in particular the fifth subparagraph of Article 17 (2) and Article 19 (3) thereof;

Having regard to Council Regulation (EEC) No 804/68[5] of 27 June 1968 on the common organisation of the market in milk and milk products, and in particular Articles 17 (3) and 18 (3) thereof;

Having regard to the proposal from the Commission;

Whereas the regulations on the common organisation of the markets in the above sectors provide that, to the extent required to allow the agricultural products in question to be exported in the form of certain processed goods not listed in Annex II to the Treaty on the basis of world market quotations or prices for such products, the difference between such quotations or prices and prices in the Community may be covered by an export refund; whereas to that end general rules should be adopted on the conditions for granting such refunds and criteria should be laid down for fixing the amount thereof;

Whereas the goods referred to above may be obtained directly from basic products, or from products derived from the processing of those basic products, or from products assimilated to those basic products or to products derived from the processing thereof; whereas in all these cases rules should be laid down for determining the amount of the export refund;

Whereas exporters should be able to know sufficiently far in advance the amount of the refund to which they may be entitled; whereas to that end, subject to the provisions of the fourth subparagraph of Article 16 (2) of Regulation No 120/67/EEC and of the corresponding articles in the other regulations on the common organisation of markets, that amount should be fixed for a period of one month; whereas the introduction of a system of advance fixing of refunds, provided that it is accompanied by the necessary safeguards, would serve that purpose;

Whereas account should be taken of the specific requirements of the industries producing the goods in question and the fact that the manufacture of those goods very often requires the use of several agricultural products on which the refund may be different; whereas the joint fixing of refunds should meet these cases;

Whereas the refund should have the effect of placing industries using Community agricultural products and industries using products from third countries under inward processing arrangements on an equal

[1] OJ No 117, 19.6.1967, p. 2269/67.
[2] OJ No 117, 19.6.1967, p. 2293/67.
[3] OJ No 174, 31.7.1967, p. 1.
[4] OJ No 308, 18.12.1967, p. 1.
[5] OJ No L 148, 28.6.1968, p. 13.

footing as regards competition for supplies of those raw materials;

Whereas the proportion of the above agricultural products in most exported goods is bound to vary; whereas the amount of the refund must therefore be determined on the basis of the quantities of those products actually used in the manufacture of exported goods; whereas, however, for certain goods of a simple and relatively constant composition the amounts of the refund should, for ease of administration, be determined on the basis of fixed quantities of agricultural products;

Whereas exporters should be obliged to declare the quantities of products used in the manufacture of exported goods;

Whereas, to ensure correct application of the provisions in the regulations on the common organisation of markets relating to the granting of export refunds, such refunds should not be granted on products from third countries used in the manufacture of goods which are exported after having previously been in free circulation in the Community;

HAS ADOPTED THIS REGULATION:

Article 1

1. Refunds on exports to third countries in the form of goods not covered by Annex II to the Treaty but listed, as the case may be:

— in Annex B to Regulation No 120/67/EEC;

— in the Annex to Regulation No 122/67/EEC;

— in Annex B to Regulation No 359/67/EEC;

— in the Annex to Regulation No 1009/67/EEC;

— in the Annex to Regulation (EEC) No 804/68;

and listed in Annexes B or C to this Regulation and hereinafter called 'goods', of basic products listed in Annex A, of products resulting from the processing of such basic products, and of products which are assimilated to these first two categories by the provisions of paragraph 2 of this Article, shall be fixed and granted in accordance with the general rules laid down in this Regulation.

2. For the purposes of this Regulation:

(a) goods manufactured from potato starch falling within heading No 11.08 of the Common Customs Tariff, from starch of roots and tubers falling within heading No 07.06 of the Common Customs Tariff, and from flour and meal falling within heading No 11.06 of the Common Customs Tariff shall be considered as being manufactured from maize starch;

(b) goods manufactured from:

— fresh milk, not concentrated or sweetened, with a milkfat content by weight not exceeding 0·1%, or

— concentrated milk or cream, other than in powder form, without added sugar, with a milkfat content by weight of less than 0·5%, or

— milk powder, without added sugar, with a milkfat content by weight of less than 1·5%,

shall be considered as manufactured from milk powder complying with the definition of the pilot product of Group No 2 listed in Annex I to Council Regulation (EEC) No 823/68[1] of 28 June 1968 determining the groups of products and the special provisions for calculating levies on milk and milk products;

(c) goods manufactured from:

— milk or cream, fresh, not concentrated or sweetened, with a milkfat content by weight exceeding 0·1% and not exceeding 6%, or

— milk or cream in powder form, without added sugar, with a milkfat content by weight exceeding 1·5%,

shall be considered as being manufactured from milk powder complying with the definition of the pilot product of Group No 3 listed in the Annex to Regulation (EEC) No 823/68;

(d) goods manufactured from concentrated milk or cream, other than in powder form, without added sugar, with a milkfat content by weight not less than 0·5%, shall be considered as being manufactured from concentrated milk complying with the definition of the pilot product of Group No 4 listed in the Annex to Regulation (EEC) No 823/68;

(e) goods manufactured from:

— fresh milk or cream, not concentrated or sweetened, with a milkfat content by weight exceeding 6%, or

— butter with a milkfat content by weight exceeding 82%

shall be considered as being manufactured from butter complying with the definition of the pilot product of Group No 6 listed in the Annex to Regulation (EEC) No 823/68.

[1] OJ No L 151, 30.6.1968, p. 3.

Article 2

In respect of the products referred to in Article 1 (1), the export refund on any goods shall be equal to the sum of the amounts obtained by multiplying the quantity of each of the basic products listed in Annex A, determined in accordance with Article 3, by the rate of the refund on the basic product calculated per unit of weight in accordance with Article 4.

Article 3

1. In respect of the goods listed in Annex B, the quantity of each of the basic products listed in Annex A to be taken in calculating the amount of the refund shall be determined as follows:

(a) In the case of use, unprocessed, of a basic product listed in Annex A or of an assimilated product, the quantity shall be that which is actually used in the manufacture of the exported goods.

When goods have been manufactured from fresh milk, not concentrated or sweetened, with a milkfat content by weight not exceeding 0·1% the quantity of the pilot product of Group No 2 to be taken shall be determined by means of a conversion rate of 8·62 kilogrammes of the pilot product per 100 kilogrammes of fresh milk, not concentrated or sweetened.

When goods have been manufactured from concentrated milk or cream, other than in powder form, without added sugar, with a milkfat content by weight of less than 0·5%, the quantity of the pilot product of Group No 2 to be taken shall be determined by means of a conversion rate of 26 kilogrammes of the pilot product per 100 kilogrammes of concentrated milk or cream, other than in powder form, without added sugar.

When goods have been manufactured from the milk products referred to in Article 1 (2) (c) (d) or (e), the quantity of the pilot product of Group No 3, No 4 or No 6 to be taken, as the case may be, shall be determined by means of a conversion rate of:

— 3·85 kilogrammes of the pilot product of Group No 3 per 1% of milkfat contained in 100 kilogrammes of milk product assimilated to that pilot product;

— 13·33 kilogrammes of the pilot product of Group No 4 per 1% of milkfat contained in 100 kilogrammes of milk product assimilated to that pilot product;

— 1·22 kilogrammes of the pilot product of Group No 6 per 1% of milkfat contained in 100 kilogrammes of the milk product assimilated to that pilot product.

(b) In the case of use of a product:

— derived from the processing of a basic product listed in Annex A or of a product assimilated to that basic product,

— or assimilated to a product derived from the processing of a basic product listed in Annex A,

and covered by Annex II to the Treaty, the quantity shall be that which is actually used in the manufacture of the exported goods, reduced to a quantity of basic product listed in Annex A by applying, as the case may be, the special rules for calculation, equivalence ratios or coefficients fixed for determining the levies on imports of the products in question.

(c) In the case of use:

— either of a product derived from the processing of a basic product listed in Annex A or of a product assimilated to that basic product, and not covered by Annex II to the Treaty,

— or of a product derived from the mixture or from the processing of several basic products listed in Annex A and/or products assimilated to those basic products, and/or products referred to in the preceding indent,

the quantity shall be equal, for each of the basic products in question listed in Annex A and subject to the provisions of paragraph 3, to the quantity found after verification pursuant to Article 8 (1), account being taken, where appropriate, of the special rules for calculation, equivalence ratios and coefficients referred to in (b).

2. For the purposes of paragraph 1, the products used unprocessed in the manufacture of goods shall be considered as actually used.

3. In respect of the goods listed in Annex C, the quantity of basic products to be that in calculating the amount of the refund shall be that shown in that Annex against each of those goods.

4. If the annexes to the regulations referred to in Article 1 (1) of this Regulation are supplemented by the addition of further goods, those goods shall be considered, for the purposes of paragraphs 1, 2 and 3, as being listed in Annex B to this Regulation unless provision to the contrary is made by the Council acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission.

Article 4

1. The rate of the refund shall be fixed for each month per 100 kilogrammes of basic products listed in Annex A.

However, the rate of the refund on poultry eggs in shell, fresh or preserved, and eggs not in shell and egg yolks, suitable for human consumption, fresh, dried or otherwise preserved, not sweetened, shall be fixed for the period taken for fixing the refunds on those products exported unprocessed.

2. The rate of the refund shall be determined with particular reference

(a) the average cost incurred by the processing industries in obtaining supplies of the basic products listed in Annex A on the Community market and the prices ruling on the world market;

(b) the level of the refunds on exports of processed agricultural products covered by Annex II to the Treaty which are manufactured under similar conditions;

(c) the need to ensure equality of competition between the industries which use Community products and those which use third country products under inward processing arrangements.

3. In fixing the rate of the refund, account shall be taken, where appropriate, of production refunds, aids or other measures having equivalent effect applicable in all Member States, in accordance with the regulation on the common organisation of the market in the product in question, to the basic products listed in Annex A or to assimilated products.

4. Where the world trade situation in casein falling within subheading No 35.01 A of the Common Customs Tariff or the specific requirements of certain markets so require, the refund on such casein may be varied according to destination.

Article 5

1. The rate of the refund shall be that applying on the day on which the goods are exported.

2. However, except in respect of the basic products listed in Annex A under tariff sub-headings Nos 04.05 A I(b) and ex 04.05 B I, the rate of the refund may be fixed in advance at the request of the party concerned. In that case, the rate of the refund applicable on the day on which application for the certificate referred to in Article 6 is made shall be applied to an export to be effected during the period of validity of that certificate.

The rate of the refund calculated in the manner described in the preceding subparagraph shall be adjusted according to the rules applying to the advance fixing of the refunds on basic products listed in Annex A exported unprocessed, except for the rules relating to the corrective amount laid down in Article 16 (4) of Regulation No 120/67/EEC and in Article 17 (4) of Regulation No 359/67/EEC.

Article 6

1. The granting of the refund under the system of advance fixing provided for in Article 5 (2) shall be subject to the submission of an advance fixing certificate which may be issued by Member States to any applicant irrespective of the place of his establishment in the Community.

Advance fixing certificates shall be valid for exports from the Community from a date to be fixed by the Council acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, and at the latest from 1 August 1969. Until that date, such certificates shall be valid only for exports from the Member State which issued them.

2. The issue of advance fixing certificates shall be conditional on the lodging of a deposit guaranteeing that exportation is effected during the period of validity of the certificate; the deposit shall be forfeited in whole or in part if exportation is not effected, or is only partially effected, within that period.

Article 7

The period of validity of advance fixing certificates, the amount of the deposit and the other implementing provisions of Articles 5 and 6 shall constitute detailed rules of application within the meaning of Article 16 (6) of Regulation No 120/67/EEC and the corresponding articles of the other regulations referred to in Article 1 of this Regulation.

Article 8

1. When goods are exported, the party concerned must declare the quantities of basic products listed in Annex A, of products derived from the processing thereof, or of products assimilated to the first two categories by virtue of Article 1 (2), which have been used in the manufacture of those goods. The competent authorities shall take all necessary measures to verify the accuracy of such declaration, such as analysis of the goods, control of the products to be used in the manufacture of the goods and inspection of the manufacturing process.

2. When goods are analysed in pursuance of paragraph 1, the methods of analysis laid down by Community provisions for the calculation of the import duty on similar goods entering the Community shall be applied.

3. The provisions of paragraph 1 shall not apply to exports of the goods listed in Annex C.

4. The document certifying exportation shall list the quantities of goods exported and the quantities of the products referred to in the first subparagraph of paragraph 1.

Article 9

In respect of products referred to in Article 1 (1), no refund shall be granted on the exportation, whether processed or unprocessed, of goods which have previously been in free circulation within the meaning of Article 10 (1) of the Treaty.

Article 10

The quantity of basic products, assimilated products or products derived from the processing thereof referred to in the regulations listed in Article 1 on which a Member State does not impose customs duty, levies or other charges having equivalent effect, in connection with the exportation of goods to third countries or as a consequence thereof, may not exceed the quantity taken, under the provisions of Article 3, for calculating the amount of the refund provided for by this Regulation.

Article 11

Regulation No 217/67/EEC is repealed with effect from 1 April 1969.

Article 12

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

The provisions of this Regulation shall be applicable from 1 April 1969.

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

Done at Brussels, 28 January 1969.

For the Council

The President

P. GRÉGOIRE

ANNEX A

CCT heading No	Description of basic products
ex 04.02 A II	Milk powder, obtained by the spray process, with a fat content of less than 1·5% by weight and with a water content, of less than 5% by weight (PG 2)
ex 04.02 A II	Milk powder, obtained by the spray process, with a fat content of 26% by weight and a water content of less than 5% by weight (PG 3)
ex 04.02 A III	Concentrated milk, with a fat content by weight of 7·5% and a content by weight referred to dry matter equal to 25% (PG 4)
ex 04.03	Butter with a fat content by weight of 82% (PG 6)
04.05 A I (b)	Poultry eggs in shell, fresh or preserved, other than eggs for hatching
ex 04.05 B I	Eggs not in shell, and yolks of poultry eggs, suitable for human consumption, fresh, preserved, dried, not sweetened
10.01	Wheat and meslin
10.02	Rye
10.03	Barley
10.04	Oats
10.05 B	Maize other than hybrid maize for sowing
ex 10.06 A	Husked rice
ex 10.06 B	Milled rice
10.06 C	Broken rice
11.01 A	Wheat or meslin flour
11.01 B	Rye flour
11.02 A I (a)	Durum wheat groats and meal
11.02 A I (b)	Common wheat groats and meal
17.01	Beet sugar and cane sugar, solid
ex 17.02 A II	Lactose containing, in the dry state, 98·5% by weight of pure product (PG 12)
17.03	Molasses, whether or not decolourised

ANNEX B

CCT heading No	Description of goods
17.04	Sugar confectionery, not containing cocoa:
	B. Chewing gum
	C. White chocolate
	D. Other
18.06	Chocolate and other food preparations containing cocoa
19.01	Malt extract
19.02	Preparations of flour, starch or malt extract, of a kind used as infant food or for dietetic or culinary purposes, containing less than 50% by weight of cocoa
19.04	Tapioca and sago; tapioca and sago substitutes obtained from potato or other starches
ex 19.05	Prepared foods obtained by the swelling or roasting of cereals or cereal products (puffed rice, corn flakes and similar products), except foods obtained from rice
19.06	Communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products
19.07	Bread, ships' biscuits and other ordinary bakers' wares, not containing added sugar, honey, eggs, fats, cheese or fruit
19.08	Pastry, biscuits, cakes and other fine bakers' wares, whether or not containing cocoa in any proportion
21.01	Roasted chicory and other roasted coffee substitutes; extracts, essences and concentrates thereof:
	A. Roasted chicory and other roasted coffee substitutes;
	II. Other (than roasted chicory)
	B. Extracts, essences and concentrates of the products described under subheading A:
	II. Other (than extracts of roasted chicory)
ex 21.05	Liquid soups and broths
21.07	Food preparations not elsewhere specified or included:
	A. Cereals in grain or ear form, pre-cooked or otherwise prepared:
	III. Other
	C. Ice cream (not including ice cream powder) and other ices
	D. Prepared yoghourt; prepared milk, in powder form, for use as infants' food or for dietetic or culinary purposes
	E. Cheese fondues
	ex F. Other, containing sugar (sucrose or invert sugar), milk products, cereals, rice or products obtained from cereals or rice
22.02	Lemonade, flavoured spa waters and flavoured aerated waters, and other non-alcoholic beverages, not including fruit and vegetable juices falling within heading No 20.07:
	ex A. Not containing milk or milkfats
	— Containing sugar (sucrose or invert sugar)
	B. Other
22.09	Spirits (other than those of heading No 22.08); liqueurs and other spirituous beverages; compound alcoholic preparations (known as 'concentrated extracts') for the manufacture of beverages:
	C. Spirituous beverages:
	ex V. Other, containing eggs or egg yolks and/or sugar (sucrose or invert sugar)

CCT heading No	Description of goods
29.16	Alcohol-acids, aldehyde-acids, ketone-acids, phenol-acids and other single or complex oxygen-function acids, and their anhydrides, acid halides, acid peroxides and peracids, and their halogenated, sulphonated, nitrated or nitrosated derivatives:
	ex A I to VIII. Mannitol or sorbitol esters
	A V. Gluconic acid and its salts and esters
	ex A VIII. Glyceric acid, glycolic acid, saccharonic acid, isosaccharonic acid, heptasaccharic acid, their salts and esters
29.35	Heterocyclic compounds; nucleic acids:
	ex T. Other:
	— Anhydric compounds of mannitol or sorbitol (for example, sorbitans), excluding maltol and isomaltol
29.43	Sugars, chemically pure, other than sucrose, glucose and lactose; sugar ethers and sugar esters, and their salts, other than products of headings Nos 29.39, 29.41 and 29.42:
	ex B. Other:
	— Sorbose, its salts and esters; methyl glucosides
35.01	Casein, caseinates and other casein derivatives; casein glues:
	B. Casein glues
35.05	Dextrins and dextrin glues; soluble or roasted starches; starch glues
38.12	Prepared glazings, prepared dressings and prepared mordants, of a kind used in the textile, paper, leather or like industries:
	A. Prepared glazings and prepared dressings:
	I. With a basis of amylaceous substances
38.19	Chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included; residual products of the chemical or allied industries, not elsewhere specified or included:
	R. Foundry core binders based on synthetic resins
	ex T. Other:
	— Sorbitol cracking products
39.02	Polymerisation and copolymerisation products (for example, polyethylene, polytretahaloethylenes, polyisobutylene, polystyrene, polyvinyl chloride, polyvinyl acetate, polyvinyl chloroacetate and other polyvinyl derivatives, polyacrylic and polymethacrylic derivatives, coumarone-indene resins):
	ex C. Adhesives based on resin emulsions and based on sodium silicate emulsions
39.06	Other high polymers, artificial resins and artificial plastic materials, including alginic acid, its salts and esters; linoxyn:
	ex B. Other, except linoxyn

ANNEX C

CCT heading No	Description of goods	Common wheat	Durum wheat	Maize	Husked rice	Barley	Sugar (sucrose)	Molasses	Milk powder PG 2	Lactose PG 12	Eggs in shell
		kg	kg	kg	kg	kg	kg	kg	kg	kg	kg
17.02	Other sugars; sugar syrups; artificial honey (whether or not mixed with natural honey); caramel:										
	A. Lactose and lactose syrup:										
	I. Containing, in the dry state, 99% or more by weight of the pure product									100	
	B. Glucose and glucose syrup:										
	I. Containing, in the dry state, 99% or more by weight of the pure product			210							
19.03	Macaron, spaghetti and similar products:										
	A. Containing eggs:										
	— Per kilogramme:										
	— 1 egg		165·4								5·25
	— 2 eggs		163·8								10·50
	— 3 eggs		162·2								15·75
	— 4 eggs		160·6								21·00
	— 5 eggs		159								26·25
	B. Other:										
	I. Containing no common wheat flour or meal		167								
	II. Other	67	100								
19.05	Prepared foods obtained by the swelling or roasting of cereals or cereal products (puffed rice, corn flakes and similar products):										
	B. Obtained from rice				174						
21.06	Natural yeasts (active or inactive); prepared baking powders:										
	A. Active natural yeasts:										
	II. Bakers' yeast:										
	(a) Dried							425			
	(b) Other							125			
21.07	Food preparations not elsewhere specified or included:										
	A. Cereals in grain or ear form, pre-cooked or otherwise prepared:										
	I. Maize			100							
	II. Rice				174						

CCT heading No	Description of goods	Common wheat	Durum wheat	Maize	Husked rice	Barley	Sugar (sucrose)	Molasses	Milk powder PG 2	Lactose PG 12	Eggs in shell
		kg	kg	kg	kg	kg	kg	kg	kg	kg	kg
	B. Ravioli, macaroni, spaghetti and similar products, not stuffed, cooked; the foregoing preparations, stuffed, whether or not cooked:										
	I. Not stuffed, cooked		66								
	II. Stuffed:										
	(a) Cooked		41								
	(b) Other		116								
22.03	Beer made from malt					27[1]					
29.04	Acyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives:										
	C. Polyhydric alcohols:						106				
	II. Mannitol										
	III. Sorbitol:										
	(a) In aqueous solution:										
	1. Containing 2% or less by weight of mannitol, calculated on the sorbitol content			172[2]							
	2. Other:										
	— Obtained from amylaceous products			152[2]							
	— Obtained from sucrose						74[2]				
	(b) Other:										
	1. Containing 2% or less by weight of mannitol, calculated on the sorbitol content			245							
	2. Other						1106				
35.01	Casein, caseinates and other casein derivates; casein glues:										
	A. Casein								291[3]		
	C. Other										
35.02	Albumins, albuminates and other albumin derivatives:										
	A. Albumins:										
	II. Other:										
	(a) Ovalbumin and lactalbumin										[4]

[1] This quantity shall be understood to be calculated for beer of a strength between 11° and 13° Plato, both inclusive. For beer of a strength below 11° Plato this quantity shall be reduced by 2 kilogrammes per degree Plato, the actual strength having first been rounded to the next degree down. For beer of a strength exceeding 13° Plato, this quantity shall be increased by 2·5 kilogrammes per degree Plato, the actual strength having first been rounded to the next degree up.

[2] This quantity shall be understood to be calculated for an aqueous solution of sorbitol with a dry matter content by weight of 70%. For aqueous solutions of sorbitol with a different dry matter content, this quantity shall be increased or reduced, as the case may be, in proportion to the actual dry matter content, and rounded to the next kilogramme down.

[3] A fixed quantity, on the basis of the casein used, at the rate of 291 kilogrammes of milk powder (PG 2) per 100 kilogrammes of casein.

[4] A quantity resulting from the application of the coefficient fixed for calculating the amount of the import charge.