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REGULATION (EEC) No 499/69 OF THE COMMISSION

of 17 March 1969

amending Regulation No 1041/67/EEC on detailed rules for the application of export refunds on products subject to a single price system

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 136/66/EEC[1] of 22 September 1966 on the establishment of a common organisation of the market in oils and fats, as last amended by Regulation (EEC) No 2146/68[2];

Having regard to Council Regulation No 162/66/EEC[3] of 27 October 1966 on trade in oils and fats between the Community and Greece;

Having regard to Council Regulation No 142/67/EEC[4] of 21 June 1967 on export refunds on colza, rape and sunflower seeds, as last amended by Regulation (EEC) No 845/68, and in particular Article 5 (2), second subparagraph, and Article 5 (3) and Article 6 thereof;

Having regard to Council Regulation No 171/67/EEC[5] of 27 June 1967 on export refunds and levies on olive oil, as last amended by Regulation (EEC) No 18/69[6] and in particular Article 8 (2), second subparagraph, Article 8 (3) and Article 11 thereof;

Having regard to Council Regulation No 120/67/EEC[7] of 13 June 1967 on the common organisation of the market in cereals, as last amended by Regulation (EEC) No 289/69,[8] and in particular Article 16 (6) thereof;

Having regard to Council Regulation No 139/67/EEC[9] of 21 June 1967 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds, and in particular Article 7 (2), second subparagraph, and Article 7 (3) thereof;

Having regard to Council Regulation (EEC) No 968/68[10] of 15 July 1968 on the system to be applied to cereal-based compound feeding-stuffs, and in particular Article 7 (3), third subparagraph, and Article 7 (5) thereof;

Having regard to Council Regulation (EEC) No 1052/68[11] of 23 July 1968 on the import and export system for products processed from cereals and from rice and in particular Article 6 (4), second subparagraph, and Article 6 (5) thereof;

Having regard to Council Regulation No 121/67/EEC[12] of 13 June 1967 on the common organisation of the market in pigmeat, as amended by Regulation (EEC) No 830/68,[13] and in particular Article 15 (6) thereof;

Having regard to Council Regulation No 177/67/EEC[14] of 27 June 1967 laying down general rules for granting export refunds on pigmeat and criteria for fixing the amount of such refunds and in particular Article 6 (2), second subparagraph, and Article 6 (3) thereof;

Having regard to Council Regulation No 122/67/EEC[15] of 13 June 1967 on the common organisation of the market in eggs, as amended by

[1] OJ No 172, 30.9.1966, p. 3025/66.
[2] OJ No L 314, 31.12.1968, p. 1.
[3] OJ No 197, 29.10.1966, p. 3393/66.
[4] OJ No 125, 26.6.1967, p. 2461/67.
[5] OJ No 130, 28.6.1967, p. 2600/67.
[6] OJ No L 3, 7.1.1969, p. 1.
[7] OJ No 117, 19.6.1967, p. 2269/67.
[8] OJ No L 41, 18.2.1969, p. 1.
[9] OJ No 125, 26.6.1967, p. 2453/67.
[10] OJ No L 166, 17.7.1968, p. 2.
[11] OJ No L 179, 25.7.1968, p. 8.
[12] OJ No 117, 19.6.1967, p. 2283/67.
[13] OJ No L 151, 30.6.1968, p. 23.
[14] OJ No 130, 28.6.1967, p. 2614/67.
[15] OJ No 117, 19.6.1967, p. 2293/67.

Regulation (EEC) No 830/68, and in particular Article 9 (3) thereof:

Having regard to Council Regulation No 175/67/EEC[1] of 27 June 1967 laying down general rules for granting export refunds on eggs and criteria for fixing the amount of such refunds, and in particular Article 6 (2), second subparagraph, and Article 6 (3) thereof;

Having regard to Council Regulation No 123/67/EEC[2] of 13 June 1967 on the common organisation of the market in poultrymeat, and in particular Article 9 (3) thereof;

Having regard to Council Regulation No 176/67/EEC[3] of 27 June 1967 laying down general rules for granting export refunds on poultrymeat and criteria for fixing the amount of such refunds, and in particular Article 6 (2), second subparagraph, and Article 6 (3) thereof;

Having regard to Council Regulation No 359/67/EEC[4] on the common organisation of the market in rice, as last amended by Regulation (EEC) No 1603/68,[5] and in particular Article 17 (6) thereof;

Having regard to Council Regulation No 366/67/EEC[6] of 25 July 1967 laying down general rules for granting export refunds on rice and criteria for fixing the amount of such refunds, and in particular Article 6 (2), second subparagraph, and Article 6 (3) thereof;

Having regard to Council Regulation No 1009/67/EEC[7] of 18 December 1967 on the common organisation of the market in sugar, as amended by Regulation (EEC) No 2100/68,[8] and in particular Article 17 (4) thereof;

Having regard to Council Regulation (EEC) No 766/68[9] of 18 June 1968 laying down general rules for granting export refunds on sugar, and in particular Article 14 (2), second subparagraph, and Article 14 (3) thereof;

Having regard to Council Regulation (EEC) No 804/68[10] of 27 June 1968 on the common organisation of the market in milk and milk products, and in particular Article 17 (4) thereof;

Having regard to Council Regulation (EEC) No 876/68[11] of 28 June 1968 laying down general rules for granting export refunds on milk and milk products and criteria for fixing the amount of such refunds, and in particular Article 6 (2), second subparagraph, and Article 6 (3) thereof;

Having regard to Council Regulation (EEC) No 805/68[12] on the common organisation of the market in beef and veal, and in particular Article 18 (6) thereof;

Having regard to Council Regulation (EEC) No 885/68[13] of 28 June 1968 laying down general rules for granting export refunds on beef and veal and criteria for fixing the amount of such refunds, and in particular Article 6 (2), second subparagraph, and Article 6 (3) thereof;

Whereas Article 3 (1) of Commission Regulation No 1041/67/EEC[14] of 21 December 1967 on detailed rules for the application of export refunds on products subject to a single price system, as amended by Regulation (EEC) No 1056/68[15] defines exportation from the Community in terms of leaving the geographical territory of the Community; whereas, in view of the special situation of the commune of Livigno in Italy, products dispatched to that commune should be regarded as having left the geographical territory of the Community;

Whereas Council Regulation (EEC) No 1496/68[16] of 27 September 1968 defined the customs territory of the Community; whereas Article 3 (2) of Regulation No 1041/67/EEC should be amended to take account of this new definition;

Whereas it follows from Article 6 of Regulation No 1041/67/EEC that refunds may be granted only for products in free circulation within the Community and whereas such a situation leads to certain difficulties; whereas, particularly in the case of certain compound products or goods, the refund is fixed on the basis not of the product itself or the goods, but on that of the basic products of which these are composed; whereas, where the refund is fixed in this way on the basis of one or more components, the fact that the component or components are themselves in free circulation, or are no longer in circulation solely as a result of incorporation in

[1] OJ No 130, 28.6.1967, p. 2610/67.
[2] OJ No 117, 19.6.1967, p. 2301/67.
[3] OJ No 130, 28.6.1967, p. 2612/67.
[4] OJ No 174, 31.7.1967, p. 1.
[5] OJ No L 253, 16.10.1968, p. 5.
[6] OJ No 174, 31.7.1967, p. 34.
[7] OJ No 308, 18.12.1967, p. 1.
[8] OJ No L 309, 24.12.1968, p. 4.
[9] OJ No L 143, 25.6.1968, p. 6.
[10] OJ No L 148, 28.6.1968, p. 13.
[11] OJ No L 155, 3.7.1968, p. 1.
[12] OJ No L 148, 28.6.1968, p. 24.
[13] OJ No L 156, 4.7.1968, p. 2.
[14] OJ No 314, 23.12.1967, p. 9.
[15] OJ No L 179, 25.7.1968, p. 28.
[16] OJ No L 238, 28.9.1968, p. 1.

other products, is sufficient reason for granting the relevant refund or part refund;

Whereas exports of very small quantities of products or goods are of no economic interest and are likely to increase the work of the competent authorities to no useful purpose; whereas refunds should not be granted for such transactions;

Whereas the first subparagraph of Article 3 of Commission Regulation No 284/67/EEC[1] of 11 July 1967 on certain detailed rules for the application of export refunds on oilseeds, as last amended by Regulation (EEC) No 266/69,[2] and Article 1 of Commission Regulation (EEC) No 839/68[3] of 28 June 1968 on detailed rules for granting export refunds on sugar, make different provisions from those of this Regulation as regards exemption from refund; whereas the relevant provisions of this Regulation may be substituted for those applicable at present in those two sectors;

Whereas, where the rate of refund is varied according to the destination of the exported products, it must be proved that the product has reached the destination for which the refund was fixed; whereas such a measure can be applied flexibly to exports eligible for a small refund provided that the transactions are such as to offer reasonable certainty that the exported goods or products will reach their destination;

Whereas Article 4 (4) of Council Regulation (EEC) No 204/69[4] 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, provides for the refund being varied according to destination; whereas, therefore, Articles 8 and 12a of Regulation No 1041/67/EEC should be amended;

Whereas, pending a Community ruling on payment of the refund in case of bonding for export, the authorisation in Article 11 of Regulation No 1041/67/EEC should be further extended;

Whereas Article 10 (2) of Regulation No 1041/67/EEC provides for a time limit for claiming payment of the refund, and whereas that provision gives rise to difficulties in cases of *force majeure,* particularly where the time limit cannot be complied with owing to administrative delays for which the party concerned is not responsible; whereas in such circumstances that rule should be made more flexible;

Whereas the measures provided for in this Regulation are in accordance with the Opinions of the Management Committees for Oils and Fats, for Cereals, for Pigmeat, for Poultrymeat and Eggs, for Sugar, for Milk and Milk Products, and for Beef and Veal;

HAS ADOPTED THIS REGULATION:

Article 1

The following shall be substituted for Article 3 (2) of Regulation No 1041/67/EEC:

'For the purposes of this Regulation:

— products shall be considered to have left the geographical territory of the Community when they have left for territories which, although forming part of the geographical territory of a Member State, form part of the customs territory of a third country; however, products shall not be considered to have left the geographical territory of the Community when sent to territories which, although forming part of the geographical territory of a third country, form part of the customs territory of the Community;

— the territory of the commune of Livigno shall be considered not to form part of the geographical territory of the Community.'

Article 2

The following shall be substituted for Article 6 of Regulation No 1041/67/EEC:

'1. A refund shall be granted only on products which, disregarding the packaging, are in free circulation within the Community.

When compound products or goods qualifying for a refund fixed on the basis of one or more of their components are exported, that refund shall be granted only to the extent that the component or components on the basis of which the refund was applied for are in free circulation within the Community. This provision shall also apply when the component or components on the basis of which the refund is applied for were in free circulation within the Community and are no longer in circulation solely due to their incorporation in other products.

2. No refund shall be granted for products or goods which are not of sound and fair marketable

[1] OJ No 151, 13.7.1967, p. 6.
[2] OJ No L 37, 13.2.1969, p. 6.
[3] OJ No L 151, 30.6.1968, p. 47.
[4] OJ No L 29, 5.2.1969, p. 1.

quality in the form in which they are exported or for products or goods intended for human consumption, if their characteristics or condition exclude or substantially impair their use for that purpose.'

Article 3

The following Article 6a shall be added to Regulation No 1041/67/EEC:

'*Article 6a*

No refund shall be granted unless the amount applicable to a transaction which has been the subject of an export declaration is greater than 10 units of account

This provision shall not apply to the transactions listed in Article 2.'

Article 4

The following shall be substituted for Article 8 (1) of Regulation No 1041/67/EEC:

'For the application of the first subparagraph of Article 7 (2) of Regulation No 139/67/EEC, the first subparagraph of Article 5 (2) of Regulation No 142/67/EEC, the first subparagraph of Article 8 (2) of Regulation No 171/67/EEC, the first subparagraph of Article 6 (2) of Regulations No 175/67/EEC, No 176/67/EEC and No 177/67/EEC, the second subparagraph of Article 8 (3) of Regulation No 194/67/EEC, the first subparagraph of Article 6 (2) of Regulation No 366/67/EEC, the first subparagraph of Article 14 (2) of Regulation (EEC) No 766/68, the first subparagraph of Article 6 (2) of Regulations (EEC) No 876/68 and (EEC) No 886/68, the first subparagraph of Article 6 (4) of Regulation (EEC) No 1052/68 and Article 4 (4) of Regulation (EEC) No 204/69, the party concerned must submit one copy of the transport document and, at the discretion of the competent national authorities, one or more of the following documents certifying arrival in the country of destination or for the use in question:

a copy of the customs or port document made out in the country of destination, a certificate issued by the official services of one of the Member States established in that country, a certificate by an international control and surveillance company. The competent national authorities may recognise other documents as equivalent and may require additional forms of proof. They shall forthwith so inform the Commission which shall without delay inform the other Member States thereof.'

Article 5

The following third paragraph shall be added to Article 8 of Regulation No 1041/67/EEC:

'3. Where a transaction is the subject of an export declaration eligible for a refund not exceeding 200 units of account and offering reasonable certainty that the products in question will reach their destination, Member States may exempt the party concerned from submitting the proofs required by paragraph 1 other than the transport document.'

Article 6

The following shall be substituted for the third indent of Article 9 (1) of Regulation No 1041/67/EEC:

'— repayment of that advance plus 15% in cases where, six months after the day on which the customs export formalities were completed, the proof referred to in Article 3 has been furnished, but where the proof referred to in Article 8 (1), if that Article is applicable to the transaction in question, has not been furnished.'

Article 7

The following shall be substituted for Article 10 (2) of Regulation No 1041/67/EEC:

'The time limit for claiming payment of the refund shall be 6 months following the day on which the customs export formalities were completed except in cases of *force majeure*.'

Article 8

In the first subparagraph of Article 11 of Regulation No 1041/67/EEC, '30 September 1969' shall be substituted for '31 December 1968'.

Article 9

In Article 12a of Regulation No 1041/67/EEC 'The provisions of Articles 1 to 6a and 8 to 12 of this Regulation . . .' shall be substituted for 'The provisions of Articles 1 to 6 and 9 to 12 of this Regulation . . .'.

Article 10

The first subparagraph of Article 3 of Regulation No 284/67/EEC and Article 1 of Regulation (EEC) No 839/68 are hereby repealed.

Article 11

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

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

Done at Brussels, 17 March 1969.

For the Commission

The President

Jean REY