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REGULATION (EEC) No 570/70 OF THE COMMISSION

of 26 March 1970

laying down detailed rules for the advance fixing of export refunds on eggs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 122/67/EEC[1] of 13 June 1967 on the common organisation of the market in eggs, as last amended by Regulation (EEC) No 436/70 [2] and in particular Articles 9 (3) and 15 thereof;

Whereas Council Regulation No 175/67/EEC[3] of 27 June 1967 laid down general rules for granting export refunds on eggs and criteria for fixing the amount of such refunds; whereas that Regulation was supplemented by Council Regulation (EEC) No 437/70[4] of 10 March 1970 as regards general rules for the advance fixing of export refunds on eggs;

Whereas, in accordance with Article 5a (1) of Regulation No 175/67/EEC, the refund shall be granted under the advance fixing system subject to the submission of an advance fixing certificate issued by Member States to any applicant irrespective of the place of his establishment in the Community; whereas conditions for the drawing up and the use of that certificate should be defined;

Whereas, in view of international trade practice in egg products, a certain margin should be allowed in respect of the quantitiy of products exported in relation to the quantity indicated in the certificate;

Whereas the period of validity of advance fixing certificates may be determined on the basis of the normal delivery period in trade in egg products;

Whereas, for the system of the advance fixing of export refunds to be correctly applied, advance fixing certificates should include certain minimum detailed rules for lodging applications for a certificate;

Whereas Article 5a (2) of Regulation No 175/67/EEC specifies that the issue of an advance fixing certificate is subject to the lodging of a deposit; whereas the amount of the deposit may be determined on the basis of possible price alterations during the time limit allowed;

Whereas the deposit guarantees an obligation to export to the specified country or countries of destination during the period of validity of the certificate; whereas the deposit is forfeited, in whole or in part, if this obligation is not fulfilled or is only partially fulfilled; whereas the provisions to be applied in this connection should be specified, in particular in cases where the obligations incurred are not fulfilled for reasons of *force majeure;*

Whereas, if the advance fixing system is to be correctly administered, the Commission must have a constant supply of information available;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Commitee for Poultrymeat and Eggs;

HAS ADOPTED THIS REGULATION:

Article 1

1. The advance fixing certificate referred to in Article 5a of Regulation No 175/67/EEC, hereinafter called the 'certificate', shall oblige the holder to export the net quantity of the specified product to the specified country or countries of destination during the period of validity of the certificate.

2. Where the quantity exported exceeds the quantity shown on the certificate by not more than 5%, it shall be considered to have been duly exported under that certificate.

[1] OJ No 117, 19.6.1967, p. 2293/67.
[2] OJ No L 55, 10.3.1970, p. 1.
[3] OJ No 130, 28.6.1967, p. 2610/67.
[4] OJ No L 55, 10.3.1970, p. 2.

3. Where the quantity exported is less than the quantity shown on the certificate by not more than 5%, the obligation to export shall be considered as fulfilled.

Article 2

The rights and obligations devolving from the certificate are not transferable.

Article 3

1. Subject to the provisions of paragraph 2, the certificate shall be valid from the date of issue until the end of the sixth month following that in which it was issued.

2. In the case of exportation on the basis of an invitation to tender, the certificate shall be valid from the date of issue until the date on which the obligations devolving from the award under the invitation to tender are due to be fulfilled.

The following shall be considered as invitations to tender: non-confidential invitations from State agencies of third countries or from international organisations governed by public law to submit, within a set time limit, tenders, acceptance of which is decided by those agencies or organisations.

Article 4

Until Community forms for the certificates are drawn up, Member States may use their own printed forms which, without prejudice to the provisions laid down in other Regulations, Directives or Decisions, shall contain all the details listed in Article 5.

Article 5

Each certificate shall state:

(a) the name and address of the applicant;

(b) description of the product to be exported and indication of the tariff sub-heading within which it falls;

(c) quantity of the products, expressed in net weight;

(d) rate or rates of the refund, according to the country or countries of destination;

(e) final date of validity of the certificate.

Article 6

1. The day on which the application for the certificate was lodged shall be understood to be:

(a) where the application was lodged at the offices of the competent agency, the day on which it was lodged, provided that this was a working day for that agency and that the application was lodged not later than 15.30 hours;

(b) where the application was sent by letter or telex to the competent agency, the day on which the application was received at that agency, provided that it was received not later than 15.30 hours;

(c) where the application was sent by telegram to the competent agency, the day on which it was received at that agency, provided that the telegram was accepted at the transmitting telegraph office not later than 15.30 hours, and that it reached the competent agency before 17.00 hours.

2. Applications for certificates which arrive either on a non-working day for the competent agency or on a working day for that agency but after the times referred to in paragraph 1 shall be deemed to have been lodged on the first working day following the day of their receipt.

Applications for certificates which are sent by telegram in accordance with paragraph 1 (c) and arrive after 17.00 hours, shall be considered to be invalid, unless the applicant specifies in the telegram that, in the event of its late arrival, he intends to apply for advance fixing of the refund on the first working day following receipt of the telegram.

Applications sent by telegram accepted at the transmitting telegraph office after 15.30 hours shall be considered as having been lodged on the first working day following the day of their receipt, even though it may have reached the competent authority before 17.00 hours.

3. During the period when Summer Time is in force in Italy, the time limits laid down in this Article shall be understood in that Member State to be one hour later.

Article 7

1. The amount of the deposit, which is required for the issue of the certificate, shall be as fixed in the Annex to this Regulation.

The deposit shall be lodged in the form of a guarantee satisfying the criteria laid down by each Member State.

The deposit must be lodged and the competent authority notified thereof in writing not later than 17.00 hours on the day on which the application for the certificate was made, within the meaning of Article 6.

2. The deposit shall be refunded:

(a) once a quantity equal to 95% at least of the net quantity indicated in the certificate has been exported during the period of validity of the certificate to the specified country or countries of destination;

(b) in respect of the quantity for which the tenderer does not submit a sucessful tender.

3. Subject to the provisions of Article 8, where the obligation to export has been fulfilled only in respect of a part of the net quantity indicated in the certificate, the deposit shall be forfeited in proportion to the amounts fixed in the Annex, as applied to an overall quantity equal to the difference between:

(a) 95% of the net quantity indicated in the certificate, and

(b) the net quantity exported.

However, where the net quantity exported amounts to less than 5% of the net quantity indicated in the certificate, the net quantity indicated in the certificate shall be substituted for the net quantity mentioned under (a).

Article 8

1. Where exportation cannot be effected during the period of validity of the certificate because of circumstances deemed to constitute a case of *force majeure,* the competent authority shall decide, at the request of the party concerned, either that the obligation to export is to be cancelled, and that the deposit is to be released, or that the period of validity of the certificate is to be extended for the period of time required in view of the circumstances invoked.

2. Where the competent authority accepts a given circumstance constituting a case of *force majeure,* it shall immediately notify the Commission thereof.

3. Where a circumstance deemed to constitute a case of *force majeure* and relating to the country of destination is invoked, such circumstances can be accepted only if the country of destination was notified in time to the competent authority, before the circumstance constituting the case of *force majeure* occurred. Notification of the country of destination shall be considered to have been made in time if, at the time of the notification, the appearance of the case of *force majeure* could not have been foreseen.

4. The exporter shall, by means of appropriate documents, supply proof of the circumstances deemed to constitute a case of *force majeure.*

Article 9

Member States shall notify the Commission:

(a) of the measures taken pursuant to this Regulation;

(b) before the tenth of each month, and initially before 10 May 1970, of the summary of certificates issued during the preceding month.

Article 10

This Regulation shall enter into force on 1 April 1970.

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

Done at Brussels, 26 March 1970.

For the Commission

The President

Jean REY

ANNEX

CCT heading No	Description of goods	Amount of the deposit u.a./100 kg
04.05	Birds' eggs and yolks, fresh, dried or otherwise preserved, sweetened or not:	
	B. Eggs, not in shell; egg yolks	
	I. Suitable for human consumption	
	(a) Eggs, not in shell	
	1. Dried	5·0
	2. Other	1·5
	(b) Egg yolks	
	1. Liquid	2·5
	2. Frozen	2·7
	3. Dried	5·0