REGULATION (EEC) No 2779/75 OF THE COUNCIL

of 29 October 1975

laying down general rules for granting export refunds on poultrymeat and 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 (EEC) No 2777/75 (1) of 29 October 1975 on the common organization of the market in poultrymeat, and in particular the fourth subparagraph of Article 9 (2) thereof;

Having regard to the proposal from the Commission;

Whereas export refunds on products subject to the common organization of the market in poultrymeat must be fixed in accordance with certain criteria which make it possible to cover the difference between prices for those products within the Community and on the world market; whereas to this end the supply situation and prices for those products within the Community and the price situation on the world market must be taken into account;

Whereas the difference between prices within the Community and prices on the world market for the quantity of feed grain required for the production of one kilogramme of slaughtered poultry and for the production of one chick must also be taken into account; whereas in the case of the products specified in Article 1 (2) (d) of Regulation (EEC) No 2777/75 the coefficients referred to in Article 5 (3) of that Regulation should be taken into account;

Whereas if price trends are to be noted prices must be determined in accordance with general principles; whereas to this end prices on third country markets and in countries of destination, producer prices recorded in third countries and free-at-Community-frontier prices should be taken into account when prices on the world market are being determined; whereas, in the absence of representative markets for poultrymeat products, prices ruling at the various marketing stages and on exportation should be used as a basis in determining Community prices;

Whereas provision must be made for varying the amount of the refund according to the destination of the products, since markets in the countries of destination are at varying distances from Community markets and special conditions apply to imports in certain countries of destination;

Whereas, to give Community exporters a measure of stability as regards the amount of the refund and certainty with regard to the list of products eligible for a refund, provision should be made for such list and amounts to remain valid for a relatively long period; whereas rules should also be laid down for the advance fixing of export refunds;

Whereas it is necessary to fix refunds in advance only in certain cases; whereas any decision to do so should be taken in accordance with Article 17 of Regulation (EEC) No 2777/75;

Whereas the possibility of fixing refunds in advance makes it necessary to take steps to ensure that in each case exportation is carried out as stated in the application; whereas to that end each applicant should receive a certificate requiring the products in question to be exported within a given period;

Whereas in order to avoid abuse the issue of such certificates should be conditional upon the provision of security, which should be forfeit if the products are not exported within the peroid of validity of the certificate;

Whereas experience gained in the various sectors where a common organization of the market has been established and in respect of which there is provision for advance fixing of the refund has shown that in certain circumstances, and in particular where exporters have abnormal recourse to this system, there is a risk of difficulties arising on the market in question;

Whereas in order to remedy such a situation it must be possible for measures to be taken rapidly; whereas provision should therefore be made for the Commission to adopt such measures after receiving the Opinion of the Management Committee or, in cases of urgency, without waiting for the latter to meet;

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(1) See page 77 of this Official Journal.

Whereas, to avoid distortions of competition between individual Community traders, the administrative conditions under which they operate must be identical throughout the Community; whereas there does not appear to be any justification for granting a refund where the products in question are imported from third countries and re-exported to third countries; whereas the reimbursement, under certain conditions, of the levy collected on importation is sufficient to allow these products to be placed on the world market again,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down rules for fixing and granting export refunds on the products specified in Article 1 (1) of Regulation (EEC) No 2777/75.

Article 2

The following shall be taken into account when refunds are being fixed:

(a) the existing situation and the future trend with regard to:

— prices and availabilities of poultrymeat products on the Community market,

— prices for poultrymeat products on the world market;

(b) the need to avoid disturbances which might lead to a prolonged imbalance between supply and demand on the Community market; and

(c) the economic aspect of the proposed exports.

When the refund on the products specified in Article 1 (1) of Regulation (EEC) No 2777/75 is being calculated, account shall also be taken of the difference between prices within the Community and prices on the world market for the quantity of feed grain determined in accordance with the provisions of Article 4 (1) of that Regulation, the coefficients referred to in Article 5 (3) of that Regulation also being taken into account in the case of derived products.

Article 3

1. The following shall be taken into account when the price on the Community market is being determined:

(a) prices ruling at the various marketing stages in the Community;

(b) prices ruling on exportation.

2. The following shall be taken into account when the price on the world market is being determined:

(a) prices ruling on third country markets;

(b) the most favourable import prices in third countries of destination for third country imports;

(c) producer prices recorded in exporting third countries, account being taken of any subsidies granted by those countries; and

(d) free-at-Community-frontier offer prices.

Article 4

Where the world market situation or the specific requirements of certain markets make this necessary, the refund for the Community may, in the case of the products specified in Article 1 (1) of Regulation (EEC) No 2777/75, be varied according to destination.

Article 5

1. The list of products on which an export refund is granted and the amount of such refund shall be fixed at least once every three months.

2. The amount of the refund shall be that applicable on the day of exportation.

3. However, it may be decided that the refund shall on request be fixed in advance. In that case, where the applicant so requests when lodging an application for a certificate of advance fixing as provided for in Article 6, the export refund applicable on the day when he lodges such application shall apply to an export operation carried out at any time during the period of validity of the said certificate.

4. Where examination of the market situation shows that there are difficulties due to the application of the provisions concerning the advance fixing of the export refund, or that such difficulties may occur, a decision may be taken in accordance with the

procedure laid down in Article 17 of Regulation (EEC) No 2777/75, to suspend the application of these provisions for such period as is strictly necessary.

In cases of extreme urgency, the Commission may, after examination of the situation, decide on the basis of all the information available to it to suspend advance fixing for a maximum of three working days.

Applications for certificates of advance fixing lodged during the period of suspension shall be rejected.

Article 6

1. The grant of the refund under the conditions provided for in Article 5 (3) shall be conditional on the presentation of a certificate of advance fixing, which shall be issued by Member States to any applicant irrespective of the place of his establishment in the Community.

The certificate of advance fixing shall be valid throughout the Community.

2. The issue of a certificate of advance fixing shall be conditional upon the provision of security guaranteeing that exportation will be carried out within the period of validity of the certificate. If the operation is not carried out, or only partially carried out within that period, the security shall be wholly or partially forfeit.

Article 7

1. The refund shall be paid upon proof:

— that the products concerned have been exported from the Community, and

— except where Article 8 applies, that such products are of Community origin.

2. Where Article 4 applies, the refund shall be paid under the conditions laid down in paragraph 1, provided it is proved that the product has reached the destination for which the refund was fixed.

Exceptions may be made to this rule, in accordance with the procedure referred to in paragraph 3, provided conditions are laid down which offer equivalent guarantees.

3. Additional provisions may be adopted in accordance with the procedure laid down in Article 17 of Regulation (EEC) No 2777/75.

Article 8

No export refund shall be granted on products specified in Article 1 (1) of Regulation (EEC) No 2777/75 which are imported from third countries and re-exported to third countries, unless the exporter proves:

— that the product to be exported and the product previously imported are one and the same, and

— that the levy was collected on importation.

In such cases the refund on each product shall be equal to whichever is the lower, the levy collected on importation or the refund applicable on the day of exportation.

Article 9

1. Council Regulation No 176/67/EEC [1] of 27 June 1967 laying down general rules for granting export refunds on poultrymeat and criteria for fixing the amount of such refunds, as last amended by Regulation (EEC) No 2689/72 [2], is hereby repealed.

2. All references to the Regulation repealed by paragraph 1 shall be construed as references to this Regulation.

References to Articles of that Regulation are to be read in accordance with the correlation given in the Annex.

Article 10

This Regulation shall enter into force on 1 November 1975.

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[1] OJ No 130, 28. 6. 1967, p. 2612/67.
[2] OJ No L 289, 27. 12. 1972, p. 41.

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

Done at Luxembourg, 29 October 1975.

For the Council
The President
G. MARCORA

ANNEX

Correlation

Regulation No 176/67/EEC	*This Regulation*
Article 5a	Article 6
Article 6	Article 7
Article 7	Article 8