REGULATION (EEC) No 2818/75 OF THE COMMISSION

of 30 October 1975

amending, as regards the proof to be furnished in certain cases before refund is made, Regulation (EEC) No 192/75 laying down detailed rules for the application of export refunds in respect of agricultural products

THE COMMISSION 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 organization of the market in cereals, as last amended by Regulation (EEC) No 665/75 [2], and in particular Articles 16 (6) and 24 thereof and the corresponding provisions of the other Regulations establishing a common organization of the market in respect of agricultural products;

Having regard to Council Regulation No 139/67/EEC [3] of 21 June 1967 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds, as last amended by Regulation (EEC) No 87/75 [4], and in particular Article 7 (2), second subparagraph, and (3) thereof and the corresponding provisions of Regulations No 142/67/EEC [5] (colza, rape and sunflower seeds), No 171/67/EEC [6] (olive oil), No 175/67/EEC [7] (eggs), No 176/67/EEC [8] (poultrymeat), No 177/67/EEC [9] (pigmeat), No 366/67/EEC [10] (rice), and Regulations (EEC) No 766/68 [11] (sugar), (EEC) No 876/68 [12] (milk and milk products), (EEC) No 885/68 [13] (beef and veal), (EEC) No 968/68 [14] (cereal-based compound feedingstuffs), (EEC) No 1052/68 [15] (products processed from cereals and rice), (EEC) No 2518/69 [16] (fruit and vegetables), (EEC) No 957/70 [17] (wine), (EEC) No 165/71 [18] (fishery products), (EEC) No 326/71 [19] (raw tobacco), and (EEC) No 1426/71 [20] (products processed from fruit and vegetables);

Whereas Commission Regulation (EEC) No 192/75 [21] of 17 January 1975 provides that in certain cases the refund shall be made only if the product has been imported into the third country or countries in respect of which the refund is prescribed; whereas Article 11 (1) of that Regulation lays down the proofs which are to be furnished in that respect; whereas experience has shown that in the case of certain exports difficulties may arise in obtaining the necessary documents; whereas such a situation may act as an obstacle to trade; whereas the provisions of paragraphs 1 and 4 of Article 11 of Regulation (EEC) No 192/75 should be suitably amended, without however weakening in any essential respect the controls against abuses;

Whereas the measures provided for in this Regulation are in accordance with the Opinions of all the relevant Management Committees,

HAS ADOPTED THIS REGULATION:

Article 1

Article 11 (1) of Regulation (EEC) No 192/75 is amended to read as follows:

'1. Where the rate of refund varies according to destination, payment of the refund shall, subject to the provisions of paragraph 2, be made only if the product has been imported into the third country or countries in respect of which the refund is prescribed.

A product shall be considered to have been imported when the customs formalities for entry into free circulation in the third country concerned have been completed. Proof that customs formalities have been completed shall be furnished by production of the relevant customs document, or of a copy or photocopy of such a document certified by the competent authorities.

However, if owing to circumstances beyond the control of the importer, proof of completion of customs formalities cannot be furnished, or if the proof furnished is considered insufficient in view of the particular circumstances in the country of destination, the competent authorities of Member States shall require proof that the goods have been unloaded in the country concerned. Such proof shall be deemed to

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(1) OJ No 117, 19. 6. 1967, p. 2269/67.
(2) OJ No L 72, 20. 3. 1975, p. 14.
(3) OJ No 125, 26. 6. 1967, p. 2453/67.
(4) OJ No L 11, 16. 1. 1975, p. 3.
(5) OJ No 125, 26. 6. 1967, p. 2461/67.
(6) OJ No 130, 28. 6. 1967, p. 2600/67.
(7) OJ No 130, 28. 6. 1967, p. 2610/67.
(8) OJ No 130, 28. 6. 1967, p. 2612/67.
(9) OJ No 130, 28. 6. 1967, p. 2614/67.
(10) OJ No 174, 31. 7. 1967, p. 34.
(11) OJ No L 143, 25. 6. 1968, p. 6.
(12) OJ No L 155, 3. 7. 1968, p. 1.
(13) OJ No L 156, 4. 7. 1968, p. 2.
(14) OJ No L 166, 17. 7. 1968, p. 2.
(15) OJ No L 179, 25. 7. 1968, p. 8.
(16) OJ No L 318, 18. 12. 1969, p. 17.
(17) OJ No L 115, 28. 5. 1970, p. 1.
(18) OJ No L 23, 29. 1. 1971, p. 1.
(19) OJ No L 39, 17. 2. 1971, p. 1.
(20) OJ No L 151, 7. 7. 1971, p. 3.

(21) OJ No L 25, 31. 1. 1975, p. 1.

have been furnished by production of one or more of the following documents :

— a copy of the port document issued or endorsed in the country of destination,

— a certificate from an international control and surveillance agency approved by the Member State where the customs export formalities have been completed,

— a bank document issued by an authorized bank established in the Community certifying that a transfer of funds corresponding to the export in question has been made to the credit of the exporter's account which has been opened with such agency, where a third country makes such transfer a precondition for the importation of the product,

— a receipt issued by an official body of the third country, in the case of goods purchased by that country or by an official body of that country, or in the case of a food-aid transaction,

— a receipt issued by an international organization, in the case of a food-aid transaction.

The Commission may, under the procedure laid down in Article 38 of Regulation No 136/66/EEC and in the corresponding Articles of the other Regulations on the common organization of markets, provide in certain specific cases to be determined that the proof of importation referred to in the first subparagraph be furnished by a single specified document.

In addition, the party concerned shall in all cases produce a copy or photocopy of the transport document.'

Article 2

Article 11 (4) of Regulation (EEC) No 192/75 is amended to read as follows :

'4. The competent authorities of Member States may exempt the party concerned from furnishing the proof required under paragraph 1 other than the transport document, where the transaction concerned offers adequate assurances that the products in question will reach their destination and is the subject of an export declaration giving entitlement to a refund not exceeding :

(a) 400 units of account in the case of products coming within Regulation (EEC) No 865/68 and of those specified in Article 1 (2) (c) of Regulation No 136/66/EEC ;

(b) 400 units of account in the case of products other than those referred to in (a), if the third country of destination lies within Europe ;

(c) 2 000 units of account in the case of products other than those referred to in (a), if the third country of destination lies outside Europe.'

Article 3

There is added to Article 13 (3) of Regulation (EEC) No 192/75 a further subparagraph as follows :

'Where the documents required under the second and third indents of Article 11 (1) cannot be submitted within the prescribed time limits although the party concerned has acted with all due diligence to obtain them within such time limits, an extension of time may be granted to such party for submission of these documents.'

Article 4

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

Where those concerned so request, it shall apply to operations in respect of which customs export formalities were completed on or after 1 October 1974.

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

Done at Brussels, 30 October 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission