COMMISSION REGULATION (EEC) No 1624/78

of 12 July 1978

amending Regulation (EEC) No 193/75 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals (1), as last amended by Regulation (EEC) No 1254/78 (2), and in particular Articles 12 (2), 15 (5) and 16 (6) thereof, and to the corresponding provisions of the other Regulations establishing a common organization of the markets for agricultural products,

Whereas Commission Regulation (EEC) No 193/75 of 17 January 1975 (3), as last amended by Regulation (EEC) No 858/78 (4), lays down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products; whereas it is necessary to supplement and clarify these rules in certain respects;

Whereas, when products are subject either to the arrangements provided for in Council Directive 69/73/EEC of 4 March 1969 on the harmonization of provisions laid down by law, regulation or administrative action in respect of inward processing (5), as last amended by Directive 76/119/EEC (6), or to those provided for in Article 9 of Commission Regulation (EEC) No 645/75 of 13 March 1975 laying down common detailed rules for the application of the export levies and charges on agricultural products (7), the competent authorities may in certain cases allow them to be put into free circulation either in the unaltered state or after processing; whereas in such cases, to ensure that the market is properly managed, an import licence should be required for the product which is actually put into free circulation; whereas, however, when the product put into free circulation has been obtained from basic products some of which have been imported from third countries and some of which have been purchased in the Community, only those basic products imported from third countries need to be taken into consideration;

Whereas the levies applicable when goods covered by inward processing arrangements are put into free circulation are determined by the rules of Directive 69/73/EEC; whereas on that account the import licence presented when the goods are put into free circulation cannot be allowed to include an advance fixing of the levy; whereas, however, the levy may be determined by tender, as is currently the case with olive oil; whereas in such cases the levy applicable will appear on the import licence;

Whereas Article 19 of Regulation (EEC) No 193/75 provides that, where an invitation to tender is issued in an importing third country, an export licence or advance fixing certificate shall only be issued in respect of those quantities for which the applicant has been awarded a contract; whereas foreign armed forces stationed within the territory of a Member State issue invitations to tender and are in the same situation as a third country; whereas for the sake of clarity it should be explicitly stated that the provisions of Article 19 also apply to such armed forces;

Whereas special provisions on invitations to tender issued by armed forces are contained in the Regulations laying down detailed rules for the application of the system of licences and certificates in various sectors; whereas these special provisions are not amended by the provisions of this Regulation;

Whereas requests under Article 20 of Regulation (EEC) No 193/75 may be made after the period of validity of the licence or certificate has expired; whereas it is advisable to limit the period within which such requests to extend the period of validity may be made, in view of the possible consequences for trade as a result of market trends;

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 156, 14. 6. 1978, p. 1.
(3) OJ No L 25, 31. 1. 1975, p. 10.
(4) OJ No L 116, 28. 4. 1978, p. 18.
(5) OJ No L 58, 8. 3. 1969, p. 1.
(6) OJ No L 24, 30. 1. 1976, p. 58.
(7) OJ No L 67, 14. 3. 1975, p. 16.

Whereas, when the period of validity of a licence or certificate has been extended as a result of *force majeure,* the object of this extension, given the special circumstances affecting the applicant, is to give the latter further time to carry out the operation that he was unable to carry out within the period initially laid down ; whereas in such cases it is accordingly not justified to permit the transfer of the rights arising from such a licence or certificate, unless the circumstances of *force majeure* invoked so warrant ;

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

Regulation (EEC) No 193/75 is amended as follows :

1. A further subparagraph as follows is added to Article 4 (1) :

'The provisions of the preceding subparagraph concerning exportation shall apply subject to the special provisions set out in paragraph 2 (d).'

2. Article 4 (2) is amended to read as follows :

'2 (a) Where products which are subject to inward processing arrangements or to the arrangements provided for in Article 9 of Regulation (EEC) No 645/75 and which do not contain the basic products referred to in first indent of (b) are placed in free circulation, then in so far as the product actually placed in free circulation is subject to an import licence, such a licence must be produced.

(b) Where products subject to either of the arrangements referred to in Article 9 (2) of the Treaty but no longer do so as a result of their incorporation in the product put into free circulation,

and

— one or more basic products which did not come within the terms of Article 9 (2) of the Treaty are put into free circulation, then, by way of derogation from Article 2 (1), for each basic product as referred to in the second indent actually used and being a product subject to an import licence, such a licence must be produced.

However, an import licence shall not be required when the product actually placed in free circulation is not subject to such a licence.

(c) Without prejudice to the special provisions concerning agricultural products, the import licence or licences produced when a product coming within paragraph (a) or (b) is placed in free circulation may not provide for advance fixing.

(d) On the exportation of a product subject to either of the arrangements referred to in (a) and containing one or more of the basic products referred to in the first indent of (b), for each such basic product, being a product subject to an export licence, such a licence shall be produced.

However, subject to the provisions of the next subparagraph concerning the advance fixing of refunds, an export licence shall not be required when the product actually exported is not subject to such a licence.

On the exportation of compound products qualifying for an export refund fixed in advance on the basis of one or more of their components, the customs status of each such component shall be the sole element to be taken into account when applying the licence system.'

3. There is added to Article 19 (1) a further subparagraph as follows :

'For the purposes of this Article, the armed forces referred to in the third indent of Article 3 of Regulation (EEC) No 192/75 shall be treated as an importing third country.'

4. There are added to Article 20 paragraphs 5 and 6 as follows :

'5. A request under paragraph 1 to extend the period of validity of a licence or certificate must be received not more than 30 days after the expiry of such period of validity.

6. By way of derogation from Article 3 (1), where the period of validity of a licence or certificate providing for advance fixing is extended as a result of *force majeure*, the rights arising from such licence or certificate shall not be transferable.

However, when the circumstances of *force majeure* so warrant, such transfer shall be authorized when requested at the same time as the request for extension.'

Article 2

This Regulation shall enter into force on 1 October 1978.

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

Done at Brussels, 12 July 1978.

For the Commission

Finn GUNDELACH

Vice-President