COMMISSION REGULATION (EEC) No 1576/80

of 20 June 1980

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 Council Regulation (EEC) No 1547/79 (2), and in particular Articles 12 (2), 15 (5) and 16 (6) thereof, and the corresponding provisions of the other Regulations on the common organization of the markets in agricultural products,

Whereas Article 22 of Council Regulation (EEC) No 1430/79 of 2 July 1979 on the repayment or remission of import or export duties (3) laid down that goods which are put into free circulation under an import licence or advance fixing certificate shall not be eligible for the system of repayment or remission of import duties unless it is established that the necessary steps have been taken by the competent authorities to cancel the effects of putting those goods into free circulation as regards the licence or certificate;

Whereas Article 3 (2) of Commission Regulation (EEC) No 1574/80 (4) laid down generally certain detailed rules for the application of Article 22 of Regulation (EEC) No 1430/79 and, in particular, that an attestation must be furnished by the authorities responsible for issuing licences or certificates;

Whereas it is necessary to lay down, in Commission Regulation (EEC) No 193/75 (5), as last amended by Regulation (EEC) No 2971/79 (6), all the detailed rules necessary for the application of Article 22 of Regulation (EEC) No 1430/79; whereas it is possible, in some cases, to satisfy the provisions laid down in Regulation (EEC) No 1430/79 without having recourse to the attestation referred to in Article 3 (2) of Regulation (EEC) No 1574/80;

Whereas the present deadline for the lodging of applications for licences or certificates may, during the period known as summer time, present problems as regards the management of products subject to a licence or certificate; whereas it is necessary to make earlier the deadline for the lodging of licences or certificates;

Whereas it is necessary, in certain cases, to ensure that products in respect of which an export licence or advance fixing certificate has been issued reach a particular destination and to specify that the security shall not be released until proof that the products have arrived at that destination has been furnished; whereas the rules governing the release of securities must be supplemented in order to take account of that situation; whereas the provisions of Regulation (EEC) No 2730/79 (7) concerning the detailed rules according to which such proof is furnished should be taken into consideration;

Whereas, where a Member States uses the import licence to manage a Community tariff quota which has led to the quantities being divided up among the Member States, it is necessary to provide specific measures to take account of the special nature of such a licence;

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 hereby amended as follows:

1. The following Article 4c is inserted:

'*Article 4c*

1. No export licence or certificate shall be required on completion of customs re-export formalities for products in respect of which the exporter provides proof that a repayment or remission of import duties has been granted in accordance with the provisions of Regulation (EEC) No 1430/79.

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 188, 26. 7. 1979, p. 1.
(3) OJ No L 175, 12. 7. 1979, p. 1.
(4) See page 3 of this Official Journal.
(5) OJ No L 25, 31. 1. 1975, p. 10.
(6) OJ No L 336, 29. 12. 1979, p. 34.
(7) OJ No L 317, 12. 12. 1979, p. 1.

Where products are subject on export to the submission of an export licence and the appropriate authorities authorize the completion of customs re-export formalities before taking a decision on the application for repayment or remission of import duties, an export licence must be submitted. Advance fixing of the export refund or levy is not permitted.

2. (a) For the purposes of Article 22 of Regulation (EEC) No 1430/79, confirmation that the measures have been taken to make it possible if necessary to cancel the effects of putting the goods into free circulation shall be provided by the authority which issued the licence or certificate, subject to the provisions of (d) hereinafter.

The importer shall state to the authority which issued the licence or certificate:

— the name and address of the decision-making authority referred to in Article 1 (2) of Regulation (EEC) No 1574/80, to which the confirmation should be sent,

— the quantity and nature of the products in question, the date of import and the number of the licence or certificate concerned.

If the licence or certificate has not already been submitted to the issuing authority, the importer must submit the licence or certificate to that authority.

Before sending the confirmation referred to in the first subparagraph, the authority which issued the licence or certificate must ensure that:

— the security in respect of the quantities in question has not been released and will not be released, or

— if the security has been released, it is re-lodged for the quantities in question.

However the security is not required to be relodged for quantities in excess of the quantity at which the obligation to import is considered to have been met.

The licence or certificate shall be returned to the party concerned.

(b) If repayment or remission of import duties is refused, the decision-making authority shall so inform the authority which issued the licence or certificate. The security relating to the quantity in question shall be released.

(c) If repayment or remission of the duties is granted, the entry on the licence or certificate for the quantity in question shall be cancelled, even if the licence or certificate is no longer valid. The licence or certificate shall be returned immediately by the interested party to the issuing agency when it is no longer valid. The security relating to the quantity in question shall be forfeit, subject to the rules applicable to the case in question.

(d) The provisions referred to in (a) and (b) shall not apply where:

— for reasons of *force majeure* the products have to be re-exported, destroyed or placed in a customs warehouse or free zone,

— the products are in the situation referred to in the second indent of Article 10 (1) (g) of Regulation (EEC) No 1430/79,

— the licence or certificate on which the quantity imported has been entered has not yet been returned to the party concerned when the application for repayment or remission of duty is lodged.

(e) The provisions referred to in the first sentence of (c):

— shall not apply in the case referred to in the second indent of (d),

— shall apply only on request by the party concerned in the case referred to in the first indent of (d).'

2. The third subparagraph of Article 5 (4) is replaced by the following:

'Where the total amount of the security in respect of any licence or certificate would be five ECU or less, or where the licence has been made out for an intervention agency, no security shall be required.'

3. Article 6 (3) is replaced by the following:

'3. The time limits specified in this Regulation correspond to Greenwich Mean Time plus two hours, so that 13.00 hours and 14.30 hours as referred to in this Regulation correspond respectively to 11.00 hours GMT and 12.30 hours GMT.'

4. The second subparagraph of Article 18 (4) (b) is replaced:

(a) in the German version, by the following:

'Der zurückzuzahlende Betrag beläuft sich auf 80 % des Kautionsbetrags, der nach den Bestimmungen des Buchstaben a) einbehalten und um denjenigen Betrag verringert wird, der nach Absatz 2 einzubehalten ist.'

(b) in the Dutch version, by the following:

'Het terug te betalen bedrag is gelijk aan 80 % van de overeenkomstig het bepaalde sub a) verbeurde waarborg, deze laatste verminderd met het bedrag dat overeenkomstig lid 2 verbeurd moet blijven.'

5. The following paragraph 5 is added to Article 18:

'5. Where it is provided that the security shall be released only upon production of proof that the product has reached a specified destination, such proof shall be furnished in accordance with the provisions of Article 20 of Regulation (EEC) No 2730/79.

For the purpose of Article 18 (4), the proof referred to in the preceding subparagraph shall also be furnished within six months following the expiry of the licence or certificate. However, where the documents required under Article 20 of Regulation (EEC) No 2730/79 cannot be submitted within the prescribed period although the exporter has acted with all due diligence to obtain them within such period, he may be granted an extension of time for the submission of these documents.'

6. The following Article 19a is inserted:

'Article 19a

1. Where a Member State uses the import licence applicable to a product in order to administer a Community tariff quota which has been divided up among the Member States:

— the licence shall be valid only in the issuing Member State,

— any quantities imported which, on account of the tolerance, exceed the quantity stated on the import licence shall not be eligible for the preferential system granted under the Community tariff quota, and

— the period of validity of the licence may not exceed the period for which the quota applies.

2. Section 20 of the licence shall be suitably endorsed to ensure application of the provisions of paragraph 1, first and second indents.

3. Where the product in question may not be imported outside the quota, or where import licences for the product in question are issued only subject to special conditions, the import licence referred to in paragraph 1 shall not include a tolerance in excess of the quantity stated on the import licence.'

Article 2

This Regulation shall enter into force on 1 July 1980.

However:

— Article 1 (3) shall apply with effect from 1 August 1980,

— Article 1 (4) shall apply with effect from 6 September 1979.

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

Done at Brussels, 20 June 1980.

For the Commission

Finn GUNDELACH

Vice-President