COMMISSION REGULATION (EEC) No 2674/80

of 17 October 1980

amending for the third time Regulation (EEC) No 2730/79 laying down common detailed rules for the application of the system of export refunds on agricultural products and amending Regulation (EEC) No 798/80 laying down detailed rules on the advance payment of export refunds and positive monetary compensatory amounts 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 (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 1870/80 (2), and in particular Articles 16 (6) and 24 thereof, and also to the corresponding provisions in the other Regulations on the common organization of the markets in agricultural products,

Having regard to Council Regulation (EEC) No 2746/75 of 29 October 1975 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds (3), and in particular the second subparagraph of Article 8 (2) and Article 8 (3) thereof, and also to the corresponding provisions of Regulations No 142/67/EEC (colza, rape and sunflower seeds) (4), No 171/67/EEC (olive oil) (5), (EEC) No 766/68 (sugar) (6), (EEC) No 876/68 (milk and milk products) (7), (EEC) No 885/68 (beef and veal) (8), (EEC) No 2518/69 (fruit and vegetables) (9), (EEC) No 326/71 (raw tobacco) (10), (EEC) No 2743/75 (cereal-based compound feedingstuffs) (11), (EEC) No 2744/75 (products processed from cereals and rice) (12), (EEC) No 2768/75 (pigmeat) (13), (EEC) No 2774/75 (eggs) (14), (EEC) No 2779/75 (poultrymeat) (15), (EEC) No 110/76 (fishery products) (16), (EEC) No 1431/76 (rice) (17), (EEC) No 519/77 (products processed from fruit and vegetables) (18), (EEC) No 345/79 (wine) (19),

Having regard to Council Regulation (EEC) No 974/71 of 12 May 1971 on certain measures of conjunctural policy to be taken in agriculture following the temporary widening of the margins of fluctuation for the currencies of certain Member States (20), as last amended by Regulation (EEC) No 1011/80 (21), and in particular Article 6 thereof,

Having regard to Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural products (22),

Whereas Article 5 of Regulation (EEC) No 565/80 provides for the payment of an amount equal to the export refund as soon as certain products or Community goods intended for export without further processing have been brought under the customs warehousing or free zone procedure ;

Whereas Article 4 of Commission Regulation (EEC) No 798/80 (23), lays down provisions for implementing the system under Article 5 of Regulation (EEC) No 565/80 ;

Whereas Article 26 of Commission Regulation (EEC) No 2730/79 (24), as last amended by Regulation (EEC) No 1607/80 (25), provides for a system for the advance payment of export refunds for agricultural products intended for loading unaltered, or after packaging, for the victualling within the Community of sea-going vessels or aircraft ;

Whereas, in order to ensure uniform application throughout the Community, the meaning, for the purpose of the operation of these two systems, of the terms 'unaltered' and 'without further processing' should be defined and it should be made clear to what processing the relevant goods may be subjected ;

Whereas Article 9 (1) of Council Directive 69/74/EEC of 4 March 1969 on the harmonization of provisions laid down by law, regulation or administrative action

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 184, 17. 7. 1980, p. 1.
(3) OJ No L 281, 1. 11. 1975, p. 78.
(4) OJ No L 125, 26. 6. 1967, p. 2461/67.
(5) OJ No L 130, 28. 6. 1967, p. 2600/67.
(6) OJ No L 143, 25. 6. 1968, p. 6.
(7) OJ No L 155, 3. 7. 1968, p. 1.
(8) OJ No L 156, 4. 7. 1968, p. 2.
(9) OJ No L 318, 18. 12. 1969, p. 17.
(10) OJ No L 39, 17. 2. 1971, p. 1.
(11) OJ No L 281, 1. 11. 1975, p. 60.
(12) OJ No L 281, 1. 11. 1975, p. 65.
(13) OJ No L 282, 1. 11. 1975, p. 39.
(14) OJ No L 282, 1. 11. 1975, p. 68.
(15) OJ No L 282, 1. 11. 1975, p. 90.
(16) OJ No L 20, 28. 1. 1976, p. 48.
(17) OJ No L 166, 25. 6. 1976, p. 36.
(18) OJ No L 73, 21. 3. 1977, p. 24.
(19) OJ No L 54, 5. 3. 1979, p. 69.
(20) OJ No L 106, 12. 5. 1971, p. 1.
(21) OJ No L 108, 26. 4. 1980, p. 3.
(22) OJ No L 62, 7. 3. 1980, p. 5.
(23) OJ No L 87, 1. 4. 1980, p. 42.
(24) OJ No L 317, 12. 12. 1979, p. 1.
(25) OJ No L 160, 26. 6. 1980, p. 42.

relating to customs warehousing procedure (1), as last amended by Directive 76/634/EEC (2), provides for the subjection of goods placed in warehouses to the usual forms of handling required in order to ensure their preservation ;

Whereas Article 1 (1) of Council Directive 71/235/EEC of 21 June 1971 on the harmonization of the provisions laid down by law, regulation or administrative action relating to the usual forms of handling which may be carried out in customs warehouses and in free zones (3), lays down a list of the usual forms of handling ; whereas that list defines in particular all forms of handling needed to ensure preservation of goods during storage ; whereas the basic requirements of that list can also be adopted when drawing up the list of forms of handling to which agricultural products intended for export without further processing may be subjected ;

Whereas, however, it appears appropriate to restrict this Regulation to those forms of handling intended to ensure preservation of the goods in question ; whereas, in order to clarify the situation, it should be laid down that these forms of handling do not in any way affect the refund to be applied ;

Whereas it may be necessary for the exporter or transporter to carry out measures in order to avoid deterioration in the products for export during the 60-day period following completion of customs formalities and before departure from the geographical territory of the Community or before arrival at destination ; whereas freezing is such a measure which makes it possible to leave the products intact ; whereas, in order to comply with this requirement, provision should be made in Article 9 of Regulation (EEC) No 2730/79 and in Article 11 of Regulation (EEC) No 798/80 for freezing to be carried out during the said period ;

Whereas the relevant management committees have not delivered opinions within the time limits set by their chairmen,

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 2730/79 is hereby amended as follows :

1. The following subparagaph is inserted after the first subparagraph of Article 9 (1) :

   'Compliance with the provisions of the preceding subparagraph shall not be prejudiced by the freezing of products or goods.'

2. The second subparagraph of Article 9 (1) becomes the third subparagraph.

   In that subparagraph, 'in the preceding subparagraph' is replaced by 'in the first subparagraph'.

3. Article 26 (2) (a) is replaced by the following :

   '(a) to load the products on board unaltered or frozen and/or after packaging for the victualling within the Community of :

   — sea-going vessels, or

   — aircraft operating on international routes, including intra-Community routes ;'.

Article 2

Regulation (EEC) No 798/80 is hereby amended as follows :

1. The following paragraph 5 is added to Article 4 :

   '5. Products or goods under a customs warehousing or free zone procedure may be there subjected, under the conditions fixed by the competent authorities, to the following operations :

   1. stocktaking ;
   2. the affixing to the goods or products themselves, or to their packings, of marks, seals, labels or other similar distinguishing signs, provided there is no risk of giving the goods an apparent origin different from their real one ;
   3. altering the marks and numbers on the packages, provided there is no risk of giving the goods or products an apparent origin different from their real one ;
   4. packing, unpacking, change of packings or repair of packings ;
   5. airing ;
   6. chilling ;
   7. freezing.

   Any refund or monetary compensatory amount applicable to goods or products which have been subjected to the forms of handling referred to above shall be determined in accordance with the quantity, nature and characteristics of the goods or products on the date laid down for the calculation of the refund, in accordance with the provisions of Article 3.'

2. The following subparagraph is added to Article 11 (3) :

   'Compliance with the provisions of the preceding subparagraph shall not be prejudiced by the freezing of products or goods.'

(1) OJ No L 58, 8. 3. 1969, p. 7.
(2) OJ No L 223, 16. 8. 1976, p. 17.
(3) OJ No L 143, 29. 6. 1971, p. 28.

Article 3

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

It shall apply with effect from 1 November 1980.

However, it shall also apply, on application by those concerned, to goods or products placed after 1 April 1980 under the system referred to in Article 5 of Regulation (EEC) No 565/80.

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

Done at Brussels, 17 October 1980.

For the Commission

Finn GUNDELACH

Vice-President