COMMISSION REGULATION (EEC) No 1760/83

of 29 June 1983

on special detailed rules for the application of the system of advance-fixing certificates for certain agricultural products exported in the form of goods not covered by Annex II to the Treaty and derogating from Regulation (EEC) No 2730/79 with regard to payment of refunds on butter

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products (1), as last amended by Regulation (EEC) No 1600/83 (2), and in particular Articles 17 (4) and 28 thereof and the corresponding provisions of certain other Regulations establishing a common organization of the markets in agricultural products,

Whereas special detailed rules for the application of the system of advance-fixing certificates estabished for certain agricultural products exported in the form of goods not covered by Annex II to the Treaty were laid down by Commission Regulation (EEC) No 2049/75 of 25 July 1975 on special detailed rules for the application of the system of advance-fixing certificates for certain agricultural products exported in the form of goods not covered by Annex II to the Treaty (3), as last amended by Regulation (EEC) No 1744/76 (4);

Whereas that Regulation has been and has to be amended to a substantial extent to be in conformity with the basic legislation concerning the products in question; whereas that Regulation should therefore be redrafted with certain adjustments;

Whereas such detailed rules either supplement or derogate from the provisions of Commission Regulation (EEC) No 3183/80 of 3 December 1980 laying down common detailed rules for the application of the system of import and export licences and advance-fixing certificates for agricultural products (5), as last amended by Regulation (EEC) No 2666/82 (6);

Whereas, so that the trend of exports of goods with a high milkfat content can be very closely followed it should be specified that the refund on exports to Zone C 2 will be granted only on those made under cover of an advance-fixing certificate of the refund; whereas it is necessary to prescribe that the destination shown on the advance-fixing certificate be compulsory and to ensure that the butter goes to this compulsory destination by making payment of part of the refund conditional on presentation of proof of arrival at destination; whereas, for this purpose, special provisions should be laid down that derogate from those of Commission Regulations (EEC) No 2730/79 (7) and (EEC) No 798/80 (8); whereas the destination should be indicated using the definitions given in the Annex to Commission Regulation (EEC) No 1098/68 (9), as last amended by Regulation (EEC) No 2283/81 (10);

Whereas it is therefore necessary to follow for these goods *mutatis mutandis* the system laid down in Commission Regulation (EEC) No 583/83 of 15 March 1983 amending Regulation (EEC) No 2729/81 with regard to export licences for butter and derogating from Regulation (EEC) No 2730/79 with regard to the payment of refunds on butter (11) taking into account the temporary suspension of Article 10 (2) of Commission Regulation (EEC) No 2729/81 of 14 September 1981 laying down special rules implementing the system of import and export licences and the advance fixing of refunds in respect of milk and milk products (12), as last amended by Regulation (EEC) No 583/83 (13); whereas it is also necessary to follow the information system established by Article 6 of Commission Regulation (EEC) No 210/69 of 31 January 1969 on communications between Member States and the Commission with regard to milk and milk products (14), as last amended by Regulation (EEC) No 1768/82 (15);

Whereas the measures provided for in this Regulation are in accordance with the opinions of the Management Committees for Cereals, Poultrymeat and Eggs, Milk and Milk Products, and Sugar,

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 163, 22. 6. 1983, p. 56.
(3) OJ No L 213, 11. 8. 1975, p. 37.
(4) OJ No L 195, 21. 7. 1976, p. 9.
(5) OJ No L 338, 13. 12. 1980, p. 1.
(6) OJ No L 283, 6. 10. 1982, p. 7.
(7) OJ No L 317, 12. 12. 1979, p. 1.
(8) OJ No L 87, 1. 4. 1980, p. 42.
(9) OJ No L 184, 29. 7. 1968, p. 10.
(10) OJ No L 223, 8. 8. 1981, p. 10.
(11) OJ No L 70, 16. 3. 1983, p. 26.
(12) OJ No L 272, 26. 9. 1981, p. 19.
(13) OJ No L 70, 16. 3. 1983, p. 26.
(14) OJ No L 28, 5. 2. 1969, p. 1.
(15) OJ No L 196, 5. 7. 1982, p. 14.

HAS ADOPTED THIS REGULATION :

Article 1

This Regulation lays down special detailed rules for the application of the system of advance-fixing certificates established by Article 6 of Council Regulation (EEC) No 3035/80 of 11 November 1980 laying down general rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty and the criteria for fixing the amount of such refunds (1).

Article 2

Advance-fixing certificates, hereinafter referred to as 'certificates', shall be applied for and issued in respect of a single basic product. They shall contain a description of the goods in the form in which that basic product is to be exported. Two or more descriptions of goods may be shown on the same certificate only where :

— their export attracts the same rate of export refund in respect of the basic product in question exported in the form of the goods indicated, and

— the same validity period, as specified in Article 4, applies to each description of goods.

Article 3

The application for a certificate and the certificate shall contain :

(a) in section 12, a description of the goods to be exported and the number of the tariff heading(s) or subheading(s) within which they fall, as shown in Annexes B and C to Regulation (EEC) No 3035/80 ; however, when the rate of refund on the basic product for which the certificate is issued varies according to the tariff classification or the characteristics of the goods to be exported, the certificate shall show the exact nature of these goods and shall specify the subheading of the Common Customs Tariff within which they fall ;

(b) in section 6, the nature and, in sections 10 and 11, the quantity expressed in net weight of the basic product listed in Annex A to Regulation (EEC) No 3035/80, for which the refund is to be fixed in advance, such nature and quantity being established in accordance with Articles 1 (2) and 3 (1) to (3) of that Regulation ; in sections 7 and 8 respectively, the description according to the nomenclature of the Common Customs Tariff and the tariff heading number of the basic product for which the certificate is issued ;

(c) where Article 6 applies, in section 12, in addition to the information specified in (a), the quantity expressed in net weight of the goods concerned which corresponds to the target quantity of the basic product entered in section 10.

Article 4

1. A certificate shall be valid from its day of issue within the meaning of Article 21 (1) of Regulation (EEC) No 3183/80 :

— for products covered by the common organizations of the markets in sugar, cereals and eggs, until the end of the fifth month following that of issue, and

— for products covered by the common organization of the market in milk and milk products, until the end of the sixth month following that of issue.

However, where goods are exported on the basis of an invitation to tender as referred to in Article 43 of Regulation (EEC) No 3183/80 and opened in an importing non-member country, the certificate shall be valid until the date on which the obligations under the award must be met, although the period of validity of the certificate may not exceed :

— for products covered by the common organizations of the markets in the sugar sector and in cereals, eight months following that of issue, and

— for products covered by the common organization of the market in milk and milk products, 13 months following that in which the certificate was issued. For the said products, the maximum period of validity shall be increased to 18 months in the case of exports on the basis of an invitation to tender as referred to in Article 6.

2. Notwithstanding paragraph 1 :

(a) with regard to barley exported in the form of beer, falling within heading No 22.03 of the Common Customs Tariff, the certificate shall be valid until the end of the 11th month following that of issue ;

(b) with regard to poultry eggs in shell, fresh or preserved, other than for hatching, used in calculating the export refund on ovalbumin falling within subheading ex 35.02 A II a) of the Common Customs Tariff, the certificate shall be valid until the end of the third month following that of issue.

Article 5

In the case of export of goods covered by the common organization of the market in milk and milk products, pursuant to an invitation to tender as referred to in Article 43 of Regulation (EEC) No 3183/80, notwithstanding the second subparagraph of paragraph 2 of that Article, the applicant for the certificate must comply with a maximum period of 90 days following the time limit for submission of tenders either :

— for informing the issuing agency of the results of the invitation to tender, or

(1) OJ No L 323, 29. 11. 1980, p. 27.

— for providing proof that the time limit for submission of tenders has been deferred, or

— for informing the issuing agency that he is unable to know the results of the invitation to tender for reasons which are beyond his control.

Where the applicant for the certificate fails to observe these provisions, the licence shall not be issued and the security shall be forfeit.

Article 6

1. Where the conditions of an invitation to tender issued by armed forces stationed in the territory of a Member State but not coming under its flag fix only approximately the quantity of goods to be supplied, since the quantity that will in fact be supplied can be determined only at the end of the delivery period provided for in the invitation to tender, the certificate relating to the basic product, exported in the form of such goods, shall be issued for the quantity corresponding to the quantity of such goods (to be known as the 'target quantity') as fixed approximately under the terms of the invitation to tender. In such cases one of the following endorsements shall be entered in section 12 of the application for the certificate and of the certificate itself :

'Target quantity',

'Anslået mængde',

'Richtmenge',

'Ενδεικτική ποσότητα',

'Quantité indicative',

'Quantità indicativa',

'Geschatte hoeveelheid'.

The certificate may be used only for an amount not exceeding that quantity.

The obligation to export shall be fulfilled when the quantity of the basic product to be known as the 'definitive quantity' corresponding to the quantity of goods fixed for supply by the agency inviting tenders has been exported. The parties concerned shall submit the relevant evidence to the agency which issued the certificate.

2. In cases where the quantity for export proves greater than the target quantity, the agency which issued the certificate shall at the request of the party concerned issue one or more supplementary certificates.

The supplementary certificate shall contain the same details as the original certificate, except with regard to the quantity and the date of issue. In addition, section 2 shall contain one of the following endorsements :

'Additional advance-fixing certificate',

'Ekstra forudfastsættelsesattest',

'Zusatz-Vorausfestsetzungsbescheinigung',

'Συμπληρωματικό πιστοποιητικό',

'Certificat complémentaire',

'Titolo complementare',

'Aanvullend certificaat'.

3. Where the definitive quantity is less than the target quantity as indicated in the original certificate and in any supplementary certificate or certificates, the security corresponding to the balance shall be released.

4. The provisions of the first subparagraph of Article 33 (3) of Regulation (EEC) No 3183/80 shall not apply to certificates issued in accordance with this Article.

5. Where application for a certificate is made for an export in pursuance of an invitation to tender referred to in paragraph 1, the provisions of the second and third subparagraphs of Article 43 (2) of Regulation (EEC) No 3183/80 shall not apply.

Article 7

1. The provisions of this Article shall apply to products falling within heading No 04.03 of the Common Customs Tariff, exported in the form of goods falling within subheadings 18.06 D II c) and 21.07 G VII to IX.

2. Certificates which contain in section 12 a description of goods falling within the subheadings specified in paragraph 1 may not contain a description of goods falling within other subheadings.

3. Certificates shall only be issued on the fifth working day following the day on which the application is lodged, in so far as special measures are not taken in the intervening period.

4. Certificate applications and certificates for products as specified in paragraph 1 that are to be exported or used for one of the purposes indicated in Article 5 or 19b of Regulation (EEC) No 2730/79 shall show in section 13 the entry 'Zone C 2' or 'Zone C 1 or destination other than Zones C 1 and C 2'. The certificate shall carry with it an obligation to export or consign to the destination indicated. In addition, for information purposes, the certificate application and the certificate shall also show in section 13 the non-member country of destination or the special use intended.

The destination zones shall be those defined in Regulation (EEC) No 1098/68.

5. For products as specified in paragraph 1, the refund fixed shall apply to exports for Zone C 2 only when made under cover of a certificate.

6. The following special conditions shall apply to payment of the refund, whether fixed in advance or not, on products as specified in paragraph 1 :

(a) Notwithstanding the provisions of Articles 9 (1), 21, 22 and 24 of Regulation (EEC) No 2730/79, and without prejudice to Article 10 of that Regulation, 80 % of the refund on the exported products concerned shall be paid on production of the proof referred to in the second indent of Article 9 (1) of that Regulation.

(b) If the refund is paid in advance, an amount calculated taking account of 80 % of the refund on the products shall replace the amount given by application of the first sentence of Article 6 (3) of Regulation (EEC) No 798/80.

(c) If the refund is fixed in advance, the remainder of the refund shall be paid on production of proof of import of the goods at one of the compulsory destinations shown on the certificate in accordance with paragraphs 4 and 5.

(d) If the refund is not fixed in advance, the remainder of the refund shall be paid on production of proof of import of the goods at a destination other than those belonging to Zone C 2.

(e) As regards the proof referred to in paragraphs (c) and (d) above, the provisions of Articles 19b and 20 (2), (3), (4), (5) and (6) of Regulation (EEC) No 2730/79 shall apply.

(f) For the purposes of this paragraph the refund rate applicable to the products exported shall be :

— the rate fixed in advance, where the refund is fixed in advance,

— the rate on the day of completion of customs export formalities or on the day of acceptance of the payment declaration referred to in Article 3 (2) of Regulation (EEC) No 798/80, where the refund is not fixed in advance.

7. The provisions of this Article shall not apply if the certificate used was applied for before the date when this Regulation enters into force.

8. The provisions of Article 6 of Regulation (EEC) No 210/69 shall apply, on the understanding that the goods, and the basic product for which the certificate is made out, will be described in accordance with Article 3 of this Regulation.

Article 8

The amount of security for certificates shall be as set out in the following table :

CCT heading No	Description	Amount in ECU/100 kg net of basic product unless otherwise stated
ex 04.02 A II	Milk powder, obtained by the spray process, of a fat content by weight of less than 1,5 % and of a water content by weight of less than 5 % (PG 2)	2,00
ex 04.02 A II	Milk powder, obtained by the spray process, of a fat content by weight of 26 % and of a water content by weight of less than 5 % (PG 3)	2,00
ex 04.02 A III	Concentrated milk, of a fat content by weight of 7,5 % and of a dry content by weight of 25 % (PG 4)	2,00
ex 04.03 A	Butter, of a fat content by weight of 82 % (PG 6)	4,00
04.05 A I b)	Poultry eggs in shell, fresh or preserved, other than for hatching, exported in the form of ovalbumin	1,70
10.01 B	Wheat and meslin (mixed wheat and rye)	0,60
10.02	Rye	0,60
10.03	Barley	0,60
10.04	Oats	0,60
10.05 B	Maize	0,60
10.06 B I b)	Husked rice	0,60
10.06 B II b)	Wholly milled rice	0,60
10.06 B III	Broken rice	0,60
10.07 C	Grain sorghum	0,60

CCT heading No	Description	Amount in ECU/100 kg net of basic product unless otherwise stated
11.01 A	Wheat or meslin flour	0,60
11.01 B	Rye flour	0,60
11.02 A I a)	Durum wheat, groats and meal	0,60
11.02 A I b)	Common wheat, groats and meal	0,60
ex 17.01 A	White sugar	3,50
17.01 B	Raw sugar	3,50
ex 17.02 A II	Lactose containing, in the dry state, 98,5 % by weight of the pure product (PG 12)	2,00
17.02 D I	Isoglucose (ECU/100 kg net of dry matter)	3,50
ex 17.02 D II	Beet or cane syrups containing, in the dry state, 98 % or more by weight of sucrose (including invert sugar expressed as sucrose)	3,50
17.03	Molasses	0,75

Article 9

1. Regulation (EEC) No 2049/75 is hereby repealed with effect from 1 July 1983.

2. All references in Community instruments to Regulation (EEC) No 2049/75 or to certain Articles thereof shall be treated as references to the corresponding Articles of this Regulation.

Article 10

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

It shall apply from 1 July 1983.

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

Done at Brussels, 29 June 1983.

For the Commission

Karl-Heinz NARJES

Member of the Commission