COMMISSION REGULATION (EEC) No 1169/89

of 28 April 1989

fixing the rates of the refunds applicable to certain cereal and rice products exported in the form of goods not covered by Annex II to the Treaty

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 166/89 (2), and in particular the first sentence of the fourth subparagraph of Article 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice (3), as last amended by Regulation (EEC) No 2229/88 (4), and in particular the first sentence of the fourth subparagraph of Article 17 (2) thereof,

Whereas Article 16 (1) of Regulation (EEC) No 2727/75 and Article 17 (1) of Regulation (EEC) No 1418/76 provides that the difference between quotations of prices on the world market for the products listed in Article 1 of each of those Regulations and the prices within the Community may be covered by an export refund;

Whereas 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 (5), as last amended by Regulation (EEC) No 3209/88 (6), specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex B to Regulation (EEC) No 2727/75 or in Annex B to Regulation (EEC) No 1418/76 as appropriate;

Whereas, in accordance with the first subparagraph of Article 4 (1) of Regulation (EEC) No 3035/80, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month;

Whereas, in accordance with paragraph 2 of that Article, that rate must be determined with particular reference to:

(a) the average costs incurred by processing industries in obtaining supplies of the basic products in question on the Community market and the prices ruling on the world markets;

(b) the level of the refunds on exports of processed agricultural products covered by Annex II to the Treaty which are manufactured under similar conditions;

(c) the need to ensure equality of competition for the industries which use Community products and those which use third-country products under inward processing arrangements;

Whereas Article 4 (3) of Regulation (EEC) No 3035/80 provides that, when the rate of the refunds is being fixed, account should be taken, where appropriate, of production refunds, aids or other measures having equivalent effect applicable in all Member States in accordance with the Regulation on the common organization of the market in the product in question to the basic products listed in Annex A to that Regulation or to assimilated products; whereas such production refunds are granted under the conditions laid down in Council Regulation (EEC) No 2742/75 of 29 October 1975 on production refunds in the cereals and rice sectors (7), as last amended by Regulation (EEC) No 1009/86 (8), and Council Regulation (EEC) No 1009/86 of 25 March 1986 establishing general rules applying to production refunds in the cereals and rice sector;

Whereas account should be taken, for the purposes of Article 4 (3) of Regulation (EEC) No 3035/80, of the production refund provided for in Regulation (EEC) No 2742/75 applicable during the month in which exportation occurs; whereas, moreover, in the absence of evidence that no production refund was granted under Regulation (EEC) No 1009/86 the export refund should be further reduced by the amount of the production refund applicable on the day of acceptance of the export declaration; whereas this system is the only one which discards the risk of fraud;

Whereas Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural products (9), as amended by Regula-

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 20, 25. 1. 1989, p. 16.
(3) OJ No L 166, 25. 6. 1976, p. 1.
(4) OJ No L 197, 26. 7. 1988, p. 30.
(5) OJ No L 323, 29. 11. 1980, p. 27.
(6) OJ No L 286, 20. 10. 1988, p. 6.
(7) OJ No L 281, 1. 11. 1975, p. 57.
(8) OJ No L 94, 9. 4. 1986, p. 6.
(9) OJ No L 62, 7. 3. 1980, p. 5.

tion (EEC) No 2026/83 [1], and Commission Regulation (EEC) No 3665/87 of 27 November 1987 laying down common detailed rules for the application of the system of export refunds on agricultural products [2] lay down rules on the advance payment of export refunds that must be adhered to when these are adjusted;

Whereas, now that a settlement has been reached between the European Economic Community and the United States of America on Community exports of pasta products to the United States and has been approved by Council Decision 87/482/EEC [3], it is necessary to differentiate the refund on goods falling within subheadings 1902 11 00 and 1902 19 of the combined nomenclature according to their destination;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

1. Without prejudice to paragraphs 2 and 3 the rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EEC) No 3035/80 and listed either in Article 1 of Regulation (EEC) No 2727/75 or in Article 1 (1) of Regulation (EEC) No 1418/76, exported in the form of goods listed in Annex B to Regulation (EEC) No 2727/75 or in Annex B to Regulation (EEC) No 1418/76 respectively, are hereby fixed as shown in the Annex to this Regulation.

2. For the products listed in the Annex to Regulation (EEC) No 1009/86, the refunds given in the Annex to this Regulation shall be applied on presentation, at the acceptance of the export declaration and the request for obtaining the export refund, of proof that the basic products used in the manufacture of the products to be exported have not benefited from the production refund provided for in that Regulation, and that such refund will not be applied for.

The proof referred to in the first subparagraph is provided by the presentation by the exporter of a declaration from the processor of the basic product in question attesting that the latter product has not benefited from a production refund as provided for in Regulation (EEC) No 1009/86, and that no application for such refund will be made.

3. When the proof referred to in paragraph 2 is not provided, the export refund:

(a) applicable on the date of acceptance of the export declaration for the goods, or on the day specified in Article 26 (2) of Regulation (EEC) No 3665/87, where the rate is not fixed in advance;

(b) of which the rate is fixed in advance,

will be reduced by the amount of the production refund applicable under Regulation (EEC) No 1009/86 to the basic product in question on the day of acceptance of the export declaration for the goods, or on the day specified in Article 26 (2) of Regulation (EEC) No 3665/87, if the goods have been placed under the export refund advance payment arrangements.

Article 2

This Regulation shall enter into force on 1 May 1989.

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

Done at Brussels, 28 April 1989.

For the Commission

Martin BANGEMANN

Vice-President

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[1] OJ No L 199, 22. 7. 1983, p. 12.
[2] OJ No L 351, 14. 12. 1987, p. 1.
[3] OJ No L 275, 29. 9. 1987, p. 36.

ANNEX

to the Commission Regulation of 28 April 1989 fixing the rates of the refunds applicable to certain cereal and rice products exported in the form of goods not covered by Annex II to the Treaty

(ECU/100 kg)

CN code	Description	Rate of refund
1001 10 90	Durum wheat :	
	— On exports of goods falling within CN codes 1902 11 00 and 1902 19 to the United States of America	12,495
	— In all other cases	12,621
1001 90 99	Common wheat, and meslin (mixed wheat and rye) :	
	— For the manufacture of starch	5,929
	— Other than for the manufacture of starch :	
	— On exports of goods falling within CN codes 1902 11 00 and 1902 19 to the United States of America	6,563
	— In all other cases	6,629
1002 00 00	Rye	6,005
1003 00 90	Barley	6,842
1004 00 90	Oats	2,742
1005 90 00	Maize, other than hybrid maize for sowing :	
	— For the manufacture of starch	7,889
	— Other than for the manufacture of starch	8,389
1006 20	Round grain husked rice	37,934
	Medium grain husked rice	37,521
	Long grain husked rice	37,521
ex 1006 30	Round grain wholly milled rice	48,947
	Medium grain wholly milled rice	54,378
	Long grain wholly milled rice	54,376
1006 40 00	Broken rice :	
	— For the manufacture of starch	9,580
	— Other than for the manufacture of starch	10,180
1007 00 90	Sorghum	6,283
1101 00 00	Wheat or meslin flour :	
	— On exports of goods falling within CN codes 1902 11 00 and 1902 19 to the United States of America	7,729
	— In all other cases	7,807
1102 10 00	Rye flour	15,903
1103 11 10	Durum wheat groats and meal :	
	— On exports of goods falling within CN codes 1902 11 00 and 1902 19 to the United States of America	19,367
	— In all other cases	19,563
1103 11 90	Common wheat groats and meal :	
	— On exports of goods falling within CN codes 1902 11 00 and 1902 19 to the United States of America	7,729
	— In all other cases	7,807