COMMISSION REGULATION (EEC) No 165/89

of 24 January 1989

amending Regulation (EEC) No 2169/86 laying down detailed rules for the control and payment of the production refunds in the cereals and rice sectors

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 2221/88 (2),

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),

Having regard to Council Regulation (EEC) No 1009/86 of 25 March 1986 establishing general rules applying to production refunds in the cereals and rice sectors (5), and in particular Article 6 thereof,

Whereas Commission Regulation (EEC) No 2169/86 (6), as last amended by Regulation (EEC) No 1863/88 (7), specifies particular provisions intended to prevent any possibility that esterified or etherified starch benefits unduly from more than one production refund; whereas the proof required for this purpose appears to be too difficult to establish, and it is therefore appropriate further to define the proof together with the control measures and sanctions;

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

Article 7 (4) of Regulation (EEC) No 2169/86 is hereby amended as follows:

1. Paragraph 4 is replaced by the following:

'4. Without prejudice to paragraph 2, the security referred to in paragraph 1, second subparagraph, shall only be released if the competent authority has received proof that the product under CN code 3505 10 50 is:

(a) used to manufacture products other than those listed in Annex I; or

(b) exported to third countries.

In the case specified under (a), this proof may be furnished by the presentation by the manufacturer to the competent authority of a declaration stating that:

— in the case where the product in question is to be further processed, he will use this product only to manufacture products other than those listed in Annex I, and,

— he will sell the product in question only to a party who will engage in the same requirements, and will obtain a copy of the said engagement and will keep it at the disposal of the competent authority, and,

— he is aware of the provisions of Article 7 (5).

In the case of Community exports directly to third countries, the security shall be released if the competent authority has received proof that the product in question has left the customs territory of the Community.

In the case of intra-Community trade or export to third countries via the territory of another Member State, the proof shall be furnished by the production of a control copy T5 to be issued in accordance with Commission Regulation (EEC) No 2823/87 (*). Box 104 of the control copy T5 shall be completed under item 'other' by inserting one of the following endorsements:

— Para transformación o expedición con arreglo a los apartados 4 y 5 del artículo 7 del Reglamento (CEE) nº 2169/86 o para exportación desde el territorio aduanero de la Comunidad

— Til forarbejdning eller levering i overensstemmelse med artikel 7, stk. 4, og artikel 7, stk. 5, i forordning (EØF) nr. 2169/86 eller til eksport fra Fællesskabets toldområde

— Zur Verarbeitung oder Lieferung gemäß Artikel 7 Absatz 4 bzw. Artikel 7 Absatz 5 der Verordnung (EWG) Nr. 2169/86 oder zur Ausfuhr aus dem Zollgebiet der Gemeinschaft bestimmt

— Να χρησιμοποιηθεί για τη μεταποίηση ή την παράδοση σύμφωνα με το άρθρο 7 παράγραφος 4 και το άρθρο 7 παράγραφος 5 του κανονισμού (ΕΟΚ) αριθ. 2169/86 ή να εξαχθεί από το τελωνειακό έδαφος της Κοινότητας

— To be used for processing or delivery in accordance with Article 7 (4) and (5) of Regulation (EEC) No 2169/86, or for export from the customs territory of the Community

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 197, 26. 7. 1988, p. 16.
(3) OJ No L 166, 25. 6. 1976, p. 3.
(4) OJ No L 197, 26. 7. 1988, p. 30.
(5) OJ No L 94, 9. 4. 1986, p. 6.
(6) OJ No L 189, 11. 7. 1986, p. 12.
(7) OJ No L 166, 1. 7. 1988, p. 23.

— À utiliser pour la transformation ou la livraison, conformément à l'article 7 paragraphe 4 et à l'article 7 paragraphe 5 du règlement (CEE) n° 2169/86, ou pour l'exportation à partir du territoire douanier de la Communauté

— Da utilizzare per la trasformazione o la consegna a norma dell'articolo 7, paragrafo 4 e 5 del regolamento (CEE) n. 2169/86 o per le esportazioni dal territorio doganale della Comunità

— Bestemd voor verwerking of levering overeenkomstig artikel 7, leden 4 en 5, van Verordening (EEG) nr. 2169/86, of voor uitvoer uit het douanegebied van de Gemeenschap

— A ser utilizado para transformação, em conformidade com os n.os 4 e 5 do artigo 7.º do Regulamento (CEE) n.º 2169/86, ou para exportação do território aduaneiro da Comunidade.

Where the control copy T5 is not returned to the originating customs office or competent authority within a period of 150 days following its initial delivery owing to circumstances beyond the control of the party concerned, the latter may apply to the competent authority for other documents to be accepted as equivalent, stating the grounds for such application and furnishing supporting documents. Such supporting documents must include confirmation from the customs office or competent authority that the provisions specified in the second subparagraph have been complied with.

(') OJ No L 270, 23. 9. 1987, p. 1.

2. The following paragraph 5 is added:

'5. The competent authority shall be obliged to check by appropriate means, including *a posteriori* spot checks, that the declaration mentioned in paragraph 4 has been fully complied with. Where the party concerned fails to comply with the conditions specified in this Article, without prejudice to national penalties, the competent authority in the Member State concerned shall require payment by the party concerned of an amount equal to 105 % of the highest production refund applicable to the product in question during the previous 12-month period.'

Article 2

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

It shall apply to securities constituted after that date, and on request by the interested party, to securities constituted before that date which have not yet been released or forfeited.

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

Done at Brussels, 24 January 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission