COMMISSION REGULATION (EEC) No 1615/90

of 15 June 1990

amending Regulation (EEC) No 3665/87 laying down common detailed rules for the application of the system of export refunds on 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 1340/90 [2], and in particular Article 10 (6) thereof, and to the corresponding provisions of 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 to the corresponding provisions of the other Regulations laying down general rules for granting export refunds on agricultural products,

Whereas, for reasons of simplifying administrative procedures, the detailed rules concerning certain shipments covered by combined road-rail contracts should be added to Article 7 of Commission Regulation (EEC) No 3665/87 [4], as last amended by Regulation (EEC) No 354/90 [5];

Whereas, in order to make Article 33 of the said Regulation more intelligible, it needs to be reworded;

Whereas, in accordance with Article 36 of Regulation (EEC) No 3665/87, products which are intended to be consumed on board aircraft but which are prepared before being placed on board are deemed for the purposes of applying Article 34 to have been prepared on board the aircraft; whereas in order to take into account changes in maritime traffic and the use, for the purposes of victualling such means of transport, of prepared tray-type aircraft meals or the partial preparation of meals before they are placed on board, the scope of the said Article 36 should be extended to cover such preparations and means of transport for passengers;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

Regulations (EEC) No 3665/87 is hereby amended as follows:

1. The following paragraph is added to Article 7:

'5. Where the export declaration for a product has been accepted in one Member State and, circulating under the external Community transit procedure, charge of the product is taken in another Member State by railway authorities in the framework of a combined transport contract for transport by road and by rail for carriage to a destination outside the customs territory of the Community, the customs office responsible for the railway terminal at which the product has been taken charge of by the railway authorities or the nearest customs office to that terminal shall fill in the section 'control of use and/or destination' on the back of the original of the T 5 control copy referred to in Article 6 by making one of the following entries under 'remarks':

— Salida del territorio aduanero de la Comunidad por ferrocarril, en transporte combinado por ferrocarril-carretera:

  — Documento de transporte:

    tipo: .....

    número: .....

  — Fecha de aceptación del transporte por parte de la administración ferroviaria: .....

— Udgang af Fællesskabets toldområde ad jernbane ved kombineret jernbane-/landevejstransport:

  — Transportdokument:

    art: .....

    nummer: .....

  — Dato for overtagelse ved jernbane: .....

— Ausgang aus dem Zollgebiet der Gemeinschaft mit der Eisenbahn zur Beförderung im kombinierten Straßen- und Schienenverkehr:

  — Beförderungspapier:

    Art: .....

    Nummer: .....

  — Zeitpunkt der Annahme zur Beförderung durch die Eisenbahnverwaltung: .....

— Έξοδος από το τελωνειακό έδαφος της Κοινότητας σιδηροδρομικώς, με συνδυασμένη μεταφορά σιδηροδρομικώς-οδικώς:

  — Έγγραφο μεταφοράς:

    είδος: .....

    αριθμός: .....

  — Ημερομηνία αποδοχής για τη μεταφορά από τη διοίκηση των σιδηροδρόμων: .....

[1] OJ No L 281, 1. 11. 1975, p. 1.
[2] OJ No L 134, 28. 5. 1990, p. 1.
[3] OJ No L 281, 1. 11. 1975, p. 78.
[4] OJ No L 351, 14. 12. 1987, p. 1.
[5] OJ No L 38, 10. 2. 1990, p. 34.

— Exit from the customs territory of the Community by rail under combined transport by road and by rail :

— Transport document :

type : .....

number : .....

— Date of acceptance for carriage by the railway authorities : .....

— Sortie du territoire douanier de la Communauté par chemin de fer, en transport combiné rail-route :

— Document de transport :

espèce : .....

numéro : .....

— Date d'acceptation pour le transport par l'administration des chemins de fer : .....

— Uscita dal territorio doganale della Comunità per ferrovia nell'ambito di un trasporto combinato strada-ferrovia :

— Documento di trasporto :

tipo : .....

numero : .....

— Data di accettazione del trasporto da parte dell'amministrazione delle ferrovie : .....

— Uitgang uit het douanegebied van de Gemeenschap per spoor, bij gecombineerd rail-/wegvervoer :

— Vervoerdocument :

type : .....

nummer : .....

— Datum van aanneming ten vervoer door de betrokken spoorwegadministratie : .....

— Saída do território aduaneiro da Comunidade por caminho-de-ferro, em transporte combinado rodo-ferroviário :

— Documento de transporte :

tipo : .....

número : .....

— Data de aceitação do transporte pela administração dos caminhos-de-ferro : .....

Where the transport contract for combined carriage by road and by rail is amended in such a way that the transport operation which should be terminated outside the Community is terminated within the Community, the railway authorities may execute the amended contract only with the prior agreement of the office of departure. In this case paragraph 3 shall apply *mutatis mutandis.*'

2. Article 33 is replaced by the following :

'*Article 33*

1. Where entitlement to a refund and/or monetary compensatory amount is proved in respect of products or goods permitted under the provision of this chapter, the sum due shall be set off against the amount paid in advance. In cases where the amount due for the exported quantity is higher than that which has been paid in advance, the difference shall be paid to the person concerned.

Where the amount due for the quantity exported is less than that paid in advance, in particular where paragraph 2 is applied, the competent authority shall initiate without delay the procedure laid down in Article 29 of Regulation (EEC) No 2220/85 with a view to payment by the operator of the difference between those two amounts, plus 20 %.

2. Notwithstanding Articles 48 and 17a of Commission Regulation (EEC) No 3154/85 (*), without prejudice to paragraph 1, second subparagraph, of this Article, the refund and the MCA applicable to the export in question shall be corrected, except in cases of *force majeure,* where one or more of the time limits laid down in this Regulation is not complied with, as follows :

(a) in the case of the amount of the refund defined in accordance with the items listed in the second subparagraph of Article 29 (3) :

— it shall firstly be reduced by 15 % where one or more of the time limits laid down in Articles 27 (5), 28 (5) and 32 (1) are exceeded ; the refund thus reduced shall be further reduced by 2 % per day beyond the limits referred to in Articles 27 (5) and 28 (5), and by 5 % per day beyond the limit referred to in Article 32 (1),

— where the documents referred to in Article 47 (2) are produced within six months of the time limit laid down, the refund, where applicable determined following the application of the preceding indent, shall be reduced by an amount equal to 15 % of the refund which would have been paid if all the time limits had been met ;

(b) in the case of positive MCAs :

— any overrun in one of the time limits laid down in Articles 27 (5) and 28 (5) shall result firstly in a reduction of 15 % in the MCA. That reduced amount shall be further reduced by 2 % per day's overrun,

— where the documents provided for in Article 17 (2) of Regulation (EEC) No 3154/85 are produced within six months of the time limit laid down, the positive MCA, where application determined following the application of the preceding indent, shall be reduced by an amount equal to 15 % of the MCA which would have been paid if all the time limits had been met ;

(c) in the case of negative MCAs, any overrun in the time limits referred to in (b) shall not result in a change in the MCAs.

3. Where the minimum increase provided for in the second sentence of Article 31 (1) is applied, the 20 % shall be replaced by the percentage corresponding to the ratio between the minimum increase and the amount paid in advance.

4. Where, following a case of *force majeure,* the amount due is less than the amount paid in advance, the 20 % increase shall not apply.

(*) OJ No L 310, 21. 11. 1985, p. 9.'

3. Article 36 (1) and (2) is hereby replaced by the following:

'1. For the purposes of Articles 34 (1) (a), products which are intended to be consumed on board aircraft or passenger boats, including ferryboats, but which are prepared before being placed on board shall be deemed to have been prepared on board these means of transport.

2. This Article shall apply only on condition that the exporter furnishes sufficient evidence of the quantity, nature and characteristics of the basic product before preparation in respect of which the refund is claimed.'

Article 2

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

It shall apply to transactions for which the export declaration is accepted as from 1 July 1990.

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

Done at Brussels, 15 June 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission