COMMISSION REGULATION (EEC) No 3873/90

of 28 December 1990

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 3577/90 (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 1806/89 (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 3381/90 (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 in the absence of evidence that no production refund was granted pursuant to Council Regulation (EEC) No 1009/86 of 25 March 1986 establishing general rules applying to production refunds in the cereals and rice sector (7), as last amended by Regulation (EEC) No 3655/90 (8), the export refund should be 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 wich avoids the risk of fraud;

Whereas Commission Regulation (EEC) No 28/90 (9) specifies new criteria for the classification of products falling within CN code 3505 10 50; whereas it is therefore necessary to adopt certain provisions to ensure the deduction from any export refund payable of the amount of the production refund in cases where the product in question has previously benefited from a production refund pursuant to Regulation (EEC) No 1009/86, prior to the implementation of the new criteria;

Whereas Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural products (10), as amended by Regulation (EEC) No 2026/83 (11), 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 (12), as last amended by Regulation (EEC) No 1615/90 (13), lay down rules on the advance payment of export refunds that must be adhered to when these are adjusted;

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 353, 17. 12. 1990, p. 23.
(3) OJ No L 166, 25. 6. 1976, p. 1.
(4) OJ No L 177, 24. 6. 1989, p. 1.
(5) OJ No L 323, 29. 11. 1980, p. 27.
(6) OJ No L 327, 27. 11. 1990, p. 4.
(7) OJ No L 94, 9. 4. 1986, p. 6.
(8) OJ No L 362, 27. 12. 1990, p. 33.
(9) OJ No L 3, 6. 1. 1990, p. 9.
(10) OJ No L 62, 7. 3. 1980, p. 5.
(11) OJ No L 199, 22. 7. 1983, p. 12.
(12) OJ No L 351, 14. 12. 1987, p. 1.
(13) OJ No L 152, 16. 6. 1990, p. 33.

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 (1), it is necessary to differentiate the refund on goods falling within CN codes 1902 11 00 and 1902 19 according to their destination;

Whereas, in order to ensure equitable treatment between maize products exported in the form of pellets, rolled or flaked grains falling within CN code 1904 10 and other maize products, it is necessary to differentiate the refunds on those goods;

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 pursuant to 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

The provisions of Article 1 (2) and (3) of this Regulation shall also apply to starches having on acetyl content by weight in the dry product of 0,25 % or more but less than 0,5 %

Article 3

This Regulation shall enter into force on 1 January 1991.

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

Done at Brussels, 28 December 1990.

For the Commission
Martin BANGEMANN
Vice-President

(1) OJ No L 275, 29. 9. 1987, p. 36.

ANNEX

to the Commission Regulation of 28 December 1990 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 and 1902 19 to the United States of America	9,387
	— In all other cases	14,441
1001 90 99	Common wheat, and meslin (mixed wheat and rye):	
	— On exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	6,999
	— In all other cases	10,767
1002 00 00	Rye	10,510
1003 00 90	Barley	11,000
1004 00 90	Oats	9,944
1005 90 00	Maize, other than hybrid maize for sowing):	
	— Maize in pellets, rolled or flake grains with a fat content exceeding 1,5 % in the form of goods falling within CN code 1904 10	7,129
	— In all other cases	12,581
1006 20	Round grain husked rice	23,141
	Medium grain husked rice	22,483
	Long grain husked rice	22,483
ex 1006 30	Round grain wholly milled rice	30,083
	Medium grain wholly milled rice	37,443
	Long grain wholly milled rice	37,443
1006 40 00	Broken rice	17,428
1007 00 90	Sorghum	6,649
1101 00 00	Wheat or meslin flour:	
	— On exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	8,277
	— In all other cases	12,733
1102 10 00	Rye flour	21,127
1103 11 10	Durum wheat groats and meal:	
	— On exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	14,549
	— In all other cases	22,384
1103 11 90	Common wheat groats and meal:	
	— On exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	8,277
	— In all other cases	12,733