COMMISSION REGULATION (EEC) No 1525/92

of 12 June 1992

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 674/92 [2], and in particular Articles 16 (6) and 24 thereof, and to the corresponding provisions of the other regulations on the 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 on general rules on the granting of export refunds on agricultural products,

Whereas provision should be made for a simplified procedure as regards the day to be taken into account for the determination of the rate of refunds to cover cases where exports involve frequent consignments of small quantities;

Whereas it appears possible to simplify the procedure for exports carried by vessels operating certain regular services;

Whereas when goods are transported under a combined rail-road transport contract the transhipment may be made in the Member State in which the export declaration has been accepted;

Whereas exports of small quantities are of minor economic importance and may overburden the relevant authorities; whereas the Member States' authorities should therefore be given the option of not paying refunds on such exports and of not demanding reimbursement of refunds unduly paid if the amount is very small;

Whereas experience has shown the need to amend or clarify certain other provisions of Commission Regulation (EEC) No 3665/87 [4], as last amended by Regulation (EEC) No 887/92 [5];

Whereas the measures provided for in this Regulation are in accordance with the opinions of all the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

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

1. the following Article 3a is inserted:

'*Article 3a*

The provisions of Article 3 notwithstanding, where the quantity exported does not exceed 5 000 kilograms of product per refund nomenclature code or combined nomenclature code in the case of other products and where the exports involve frequent consignments, the Member State may authorize the last day of the month to be used to determine the rate of refund applicable or, if the refund is fixed in advance, any adjustments to be made.

Where the refund is fixed in advance or determined by invitation to tender, the licence must be valid on the last day of the month of export.

Exporters authorized to make use of this option may not apply the normal procedure for the quantities set out above.';

2. Article 6a is replaced by the following:

'*Article 6a*

1. For the purpose of granting refunds in the case of export by sea, the following special provisions shall apply:

(a) Where the control copy referred to in Article 6 or the national document proving that the products have left the customs territory of the Community has been endorsed by the competent authorities, the products may not, except in cases of *force majeure*, remain for the purposes of transhipment in one or more other ports located within the customs territory of the Community for more than 28 days.

[1] OJ No L 281, 1. 11. 1975, p. 1.
[2] OJ No L 73, 19. 3. 1992, p. 7.
[3] OJ No L 281, 1. 11. 1975, p. 78.
[4] OJ No L 351, 14. 12. 1987, p. 1.
[5] OJ No L 95, 9. 4. 1992, p. 20.

(b) The 28-day time limit in subparagraph (a) shall not apply in cases where the products have left the final port within the customs territory of the Community within the initial 60-day time limit.

(c) Refunds shall be paid subject to :

— a declaration by the exporter that the products are not to be transhipped in another port,

or

— the production of proof to the paying agency of compliance with the provisions of subparagraph (a). Such proof shall consist in particular of the transport document(s) or a copy or photocopy thereof, covering the products from departure from the first port at which the documents referred to in subparagraph (a) were endorsed up to arrival in the third country in which they are to be unloaded.

The declarations referred to in the first indent shall be subject to appropriate spot checks by the paying agency. The means of proof referred to in the second indent shall be required for that purpose.

In cases of export by vessel operating a regular service and not calling at any other Community port, Member States may apply a simplified procedure for the purpose of the first indent.

(d) As an alternative to the conditions set out in subparagraph (c), the Member State of departure may stipulate that the control copy referred to in Article 6 or the national document proving that the products have left the customs territory of the Community is to be endorsed only on production of a transport document indicating a final destination outside the customs territory of the Community.

In that case one of the following entries shall be added by the competent authorities of the Member State of departure, under the heading "Remarks" in the section headed "Control of use and/or destination" on the control copy or under the corresponding heading of the national document :

— Documento de transporte con destino fuera de la CEE presentado,

— Transportdokument med destination uden for EØF forelagt,

— Beförderungspapier mit Bestimmung außerhalb der EWG wurde vorgelegt,

— Υποβαλλόμενο έγγραφο μεταφοράς με προορισμό εκτός ΕΟΚ,

— Transport document indicating a final destination outside the customs territory of the Community has been presented,

— Document de transport avec destination hors CEE présenté,

— Documento di trasporto con destinazione fuori CEE presentato,

— Vervoerdocument voor bestemming buiten EEG voorgelegd,

— Documento de transporte com destino fora da CEE apresentado.

The provisions of this subparagraph shall be the subject of suitable spot checks by the paying agency.

(e) In cases where it is found that the conditions set out in subparagraph (a) have not been complied with, for the purposes of Articles 33 and 48, the day(s) by which the 28-day time limit is exceeded shall be deemed to be days by which the time limit laid down in Articles 4 and 32 is exceeded.

If both the 60-day time limit stipulated in Article 4 (1) and the 28-day time limit stipulated in subparagraph (a) are exceeded, the reduction in the refund or the part of the security to be forfeited shall be equal to the greater of the two overruns.

2. For the purpose of granting refunds in the case of export by road, by inland waterway or by rail, the following special provisions shall apply :

(a) Where the control copy referred to in Article 6 or the national document proving that the products have left the customs territory of the Community has been endorsed by the competent authorities, the products concerned may not, except in cases of *force majeure,* return to such territory other than for the purpose of a transit operation and for not more than 28 days.

(b) The 28-day time limit in subparagraph (a) shall not apply in cases where the products concerned have left the customs territory of the Community definitively within the initial 60-day period.

(c) The application of the provisions of subparagraph (a) shall be the subject of suitable spot checks by the paying agency. In such cases the transport documents covering the products up to their arrival in the third country in which they are to be unloaded shall be required.

In cases where it is found that the conditions set out in subparagraph (a) have not been complied with, for the purposes of Articles 33 and 48, the day(s) by which the 28-day time limit is exceeded shall be deemed to be days by which the time limit laid down in Articles 4 and 32 is exceeded.

If both the 60-day time limit stipulated in Article 4 (1) and the 28-day time limit stipulated in subparagraph (a) are exceeded, the reduction in the refund or the part of the security to be forfeited shall be equal to the greater of the two overruns.

3. For the purpose of granting refunds in the case of export by air, the following special provisions shall apply :

(a) The control copy referred to in Article 6 or the national document proving that the products have left the customs territory of the Community may be endorsed by the competent authorities only on production of a transport document indicating a final destination outside the customs territory of the Community.

(b) In cases where it is found that, after completion of the formalities referred to in subparagraph (a), the products have remained for the purpose of transshipment in one or more other airports within the customs territory of the Community for more than 28 days, except in cases of *force majeure,* the day(s) by which the 28-day time limit is exceeded shall, for the pursposes of Articles 33 and 48, be deemed to be days by which the time limit laid down in Article 4 and 32 is exceeded.

If both the 60-day time stipulated in Article 4 (1) and the 28-day time limit stipulated in this subparagraph are exceeded, the reduction in the refund or the part of the security to be forfeited shall be equal to the greater of the two overruns.

(c) The application of the provisions of this paragraph shall be the subject of suitable spot checks by the paying agency.

(d) The 28-day time limit laid down in subparagraph (b) shall not apply in cases where the products concerned have left the customs territory of the Community definitively within the initial 60-day time limit.' ;

3. Article 7 (5) is replaced by the following :

'5. Where a product, moving under the external Community transit procedure, for which an export declaration has been accepted in a Member State is taken over by the railways, in that same Member State or in another Member State, under a contract for combined road-rail transport, for consignment by rail to a destination outside the customs territory of the Community, the customs office responsible for or nearest to the rail terminal at which the product is taken over by the railways shall make one of the following entries under the heading "Remarks" in the section headed "Control of use and/or destination" on the back of the original of the T5 control copy specified in Article 6 :

— 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:

— 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 uitvoer door de betrokken spoorwegadministratie :

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

— Documento de transporte :

tipo :

número :

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

A combined road-rail transport contract that is amended so as to terminate the transport operation inside the Community instead of outside may not be executed by the railway authorities without prior authorization from the office of departure. In such cases the provisions of paragraph 3 shall apply *mutatis mutandis.*';

4. Article 11 is replaced by the following :

'Article 11

Refunds may be withheld if the amount per export declaration is not more than ECU 50.

Member States may choose not to request repayment of refunds granted where the latter do not exceed ECU 50 per export declaration, provided that similar rules on non-recovery for similar cases are laid down in their national law.

For the purposes of this Article, where export declarations relate to more than one separate code of the refund or combined nomenclature, the details relating to each code shall be deemed to constitute a separate declaration.' ;

5. Article 19 (1) is replaced by the following :

'1. Member States may exempt exporters from furnishing the proof required under Article 18 other than the transport document where the transaction concerned offers adequate assurances that the products in question will reach their destination and are covered by an export declaration giving entitlement to a refund the variable part of which does not exceed :

(a) ECU 1 000 in the case of products specified in Article 1 (2) (c) of Regulation No 136/66/EEC ;

(b) ECU 1 000 in the case of products other than those refered to in (a) if the third country of destination lies within Europe ;

(c) ECU 5 000 in the case of products other than those referred to in (a) if the third country of destination lies outside Europe.' ;

6. Article 35 is hereby amended as follows :

(a) the first subparagraph of paragraph 1 is replaced by the following :

'In the case of the supplies referred to in Article 34 and 42, Member States may, by way of derogation from Article 3, authorize the use of the following procedure for the payment of refunds. An exporter authorized to use this procedure may not at the same time use the normal procedure for identical products.' ;

(b) the following paragraph 6 is added :

'6. Paragraphs 2 to 5 shall apply *mutatis mutandis* to supplies of the types indicated in Article 34 (1) (b) and (c).' ;

7. in Article 41 the following paragraph 5 is added :

'5. Proof of placing under supervision in another victualling warehouse and proof of loading on board in the Community and of delivery as referred to in Article 42 and in Article 43 (3) (a) must be furnished, except in cases of *force majeure,* within 12 months of the date of departure of the products from the victualling warehouse, Article 47 (3), (4) and (5) applying *mutatis mutandis.*' ;

8. Article 47 (3) is replaced by the following :

'3. Where the T 5 control copy referred to in Article 6 is not returned to the office of departure or relevant centralizing body within three months of its issue owing to circumstances beyond the control of the exporter, the latter may submit to the competent agency a reasoned request that other documents be regarded as equivalent.

The supporting documents to be submitted with the request must include :

(a) where a control copy has been issued to furnish proof that the products have left the customs territory of the Community :

— the transport document, and

— a document which shows that the product has been presented at a customs office in a third country or one or more of the documents referred to in Article 18 (1), (2) and (4).

A document as indicated at the second indent need not be required for exports on which the refund is not more than ECU 1 000 ; in such cases, however, the exporter must submit proof of payment.

For exports to third countries which are members of EFTA, return copy 5 of the common transit document duly stamped by such country, or a photocopy thereof certified as a true copy or a notification from the customs office of departure shall count as supporting documents ;

(b) where Articles 34, 38 or 42 apply, confirmation by the customs office responsible for checking the destination in question that the conditions for endorsement of the control copy concerned by the said office have been fulfilled ; or

(c) where Articles 34 (1) (a) and 38 apply, the acceptance certificate referred to in Article 43 (3) (c) and a document proving payment of the supplies for victualling.

The provisions of paragraph 4 shall apply for the production of equivalent proof.'

Article 2

This Regulation shall enter into force an 1 September 1992.

However, the provisions of Article 19 (1) and Article 47 (3) of Regulation (EEC) No 3665/87, as amended by this Regulation, shall also apply to exports, the files on which are still open on that date.

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

Done at Brussels, 12 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission