COMMISSION REGULATION (EC) No 1651/94

of 7 July 1994

amending Regulation (EC) No 1222/94 laying down common implementing rules for the system of granting export refunds on certain agricultural products exported in the form of goods not listed in Annex II to the Treaty, and the criteria for fixing the amount of such refunds

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products (1) and in particular Article 8 (3) thereof,

Whereas milk and milk products assimilated to milk powder meeting the description of the pilot product for Group 3 (PG 3) shown in Annex I to Council Regulation (EEC) No 2915/79 of 18 December 1979 determining the groups of products and the special provisions for calculating levies on milk and milk products (2), as last amended by Regulation (EC) No 3423/93 (3), should reflect not only the prescribed levels of fat content on a dry matter basis but also the appropriate levels of non-fat dry matter; whereas to ensure this the operator should have the possibility to claim refunds for both the fat dry matter and the non-fat dry matter;

Whereas pursuant to Commission Regulation (EC) No 1222/94 of 30 May 1994, laying down common implementing rules for the system of granting export refunds on certain agricultural products exported in the form of goods not listed in Annex II to the Treaty, and the criteria for fixing the amount of such refunds (4) milk and milk products exported in the form of non-Annex II goods qualify for export refunds calculated on the basis of their fat content up to a maximum of 40 % fat content; whereas when being exported as products falling under Annex II to the Treaty the same products may only attract export refunds on a basis of a much lower fat content; whereas to be coherent refunds paid for milk and milk products assimilated to PG 3 should not exceed the amount which can be obtained for milk and milk products with a fat content of 26 %;

Whereas for D-glucitol (sorbitol) falling within CN codes 2905 44 19 and 3823 60 19 the quantities of maize shown in Annex C for the calculation of the refund amount is not justified by the relationship of the quantities of maize actually used by the industry; therefore, it is advisable to adjust these quantities;

Whereas operators who have fixed the refund rates in advance prior to the application of this Regulation may not be able to use the full quantity of whole milk powder for which they have obtained a prefixation certificate; whereas the securities constituted which relate to these unused quantities should not be forfeit;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for horizontal questions concerning trade in processed agricultural products not listed in Annex II,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1222/94 is amended as follows:

1. The following paragraph 3 is added to Article 1:

'3. However, if the party so requests, in agreement with the competent authority, the milk products referred to in 2 (d) shall be assimilated to:

(i) milk powder meeting the description of the pilot product for Group 2 shown in Annex I to Regulation (EEC) No 2915/79 for the non-fat part of the dry matter content of the relevant product, and

(ii) butter meeting the description of the pilot product for Group 6 shown in Annex I to Regulation (EEC) No 2915/79 for the milk fat part of the relevant product.'

2. The fifth indent of Article 3 (1) (a) is replaced by the following indents:

'— 3,85 kg of the pilot product of Group 3 per 1 % by weight of milk fat contained in one of the milk products assimilated to that pilot product in accordance with Article 1 (2) (d) with a milk fat content in the dry matter by weight of not more than 26 % shall correspond to 100 kg of the milk product in question,

(1) OJ No L 318, 20. 12. 1993, p. 18.
(2) OJ No L 329, 24. 12. 1979, p. 1.
(3) OJ No L 312, 15. 12. 1993, p. 8.
(4) OJ No L 136, 31. 5. 1994, p. 5.

— 100 kg of the pilot product of Group 3 shall correspond to 100 kg of dry matter contained in the milk product assimilated to that pilot product in accordance with Article 1 (2) (d) with a milk fat content in the dry matter by weight of more than 26 %'.

3. In Annex C, relating to D-glucitol (sorbitol) falling within CN codes 2905 44 11 and 3823 60 11, in column 5 (maize), the reference to the footnote '(7)' is replaced by the figure '169', in column 9 (sugar), the references to footnotes '(7)' and '(8)' are deleted; relating to CN codes 2905 44 19 and 3823 60 19, in column 5 (maize), the reference to footnote '(7)' is replaced by the figure '148', in column 9 (sugar), the reference to footnote '(7)' is replaced by the figure '71'; relating to CN codes 2905 44 91, 2905 44 99, 3823 60 91 and 3823 60 99 in column 5 (maize) the reference to footnote '(7)' is replaced by the figure '242', in column 9 (sugar), the reference to footnote '(7)' is replaced by the figure '102'; footnote '(7)' is deleted; in footnote (8) the words 'footnote (7)' are replaced by 'columns 5 and 9'.

Article 2

At the request of the interested party the security constituted for prefixation relating to the quantities of PG 3 which are not exported as a result of the amendment introduced by this Regulation to Article 3 (1) of Regulation (EC) No 1222/94 shall be released.

Article 3

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

The provisions of paragraph 1 and 2 of Article 1 as well as of Article 2 shall apply from 1 September 1994.

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

Done at Brussels, 7 July 1994.

For the Commission

Martin BANGEMANN

Member of the Commission