# COMMISSION REGULATION (EC) No 2296/94

## of 23 September 1994

## amending Regulation (EC) No 1222/94 laying down common detailed rules for the application of the system of 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, and derogating from Regulation (EC) No 1651/94

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 it is necessary to clarify the provisions of Article 3 of Commission Regulation (EC) No 1222/94 of 30 May 1994 laying down common detailed rules for the application of the system of 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 [2], amended by Regulation (EC) No 1651/94 [3];

Whereas Regulation (EC) No 1651/94 removed all possibility of taking the fat content of liquid milk as the direct basis of calculating the refund for the milk product assimilated to the pilot-product Group 3; whereas it is appropriate to maintain in favour of those operators using liquid milk the possibility of requesting a refund calculated on the basis of the fat content of the liquid milk without a declaration of the dry matter content of this milk;

Whereas Regulation (EC) No 1651/94 altered the method of calculating the refund for milk products assimilated to the pilot-product Group 3; whereas in consequence the legitimate expectations of exporters who have fixed the export refund in advance for milk and milk products before the entry into force of Regulation (EC) No 1651/94 must be safeguarded;

Whereas it is necessary that the measures in this Regulation enter into force on the date of application of the relevant provisions of Regulation (EC) No 1651/94;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 3 (1) (a) of Regulation (EC) No 1222/94 is replaced by the following:

'(a) in the case of use, unprocessed, of a basic product or of an assimilated product, the quantity shall be that which is actually used in the manufacture of the exported goods, account being taken of the following conversion rates:

— 6,06 kg of the pilot product of Group 1 shall correspond to 100 kg of whey assimilated to that pilot product in accordance with Article 1 (2) (b),

— 9,1 kg of the pilot product of Group 2 shall correspond to 100 kg of milk products assimilated to that pilot product in accordance with Article 1 (2) (c), first indent,

— 1,01 kg of the pilot product of Group 2 shall correspond to the non-fat part of 100 kg of milk products assimilated to that pilot product in accordance with Article 1 (2) (f), first indent or paragraph 3 (i) per 1 % by weight of non-fat dry matter contained in the milk product in question,

— 0,8 kg of the pilot product of Group 2 per 1 % by weight of non-fat dry matter contained in cheese assimilated to that pilot product in accordance with Article 1 (2) (f), second indent, shall correspond to the non-fat part of 100 kg of the cheese,

— 3,85 kg of the pilot product of Group 3 per 1 % by weight of milkfat contained in one of the milk products assimilated to that pilot product in accordance with Article 1 (2) (d) with a milkfat 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 136, 31. 5. 1994, p. 5.
[3] OJ No L 174, 8. 7. 1994, p. 14.

However, at the request of the interested party 3,85 kg of the pilot product of Group 3 per 1 % by weight of milkfat contained in one of the milk products assimilated to that pilot product in accordance with Article 1 (2) (d), first indent, with a milkfat content in the liquid milk by weight less than or equal to 3,2 % shall correspond to 100 kg of the milk product in question,

— 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 milkfat content in the dry matter by weight of more than 26 %.

However, at the request of the interested party 100 kg of liquid milk assimilated to the pilot product of Group 3 in accordance with Article 1 (2) (d), first indent, with a milkfat content in the liquid milk or more than 3,2 % by weight shall correspond to 12,32 kg of that pilot product,

— 1,22 kg of the pilot product of Group 6 per 1 % weight of milkfat contained in one of the milk products assimilated to that pilot product in accordance with Article 1 (2) (e) shall correspond to 100 kg of the milk product in question,

— 1,22 kg of the pilot product of Group 6 per 1 % by weight of milkfat contained in one of the milk products assimilated to that pilot product in accordance with Article 1 (2) (f), first indent or paragraph 3 (ii) shall correspond to the fat part of 100 kg of the milk product in question,

— 0,80 kg of the pilot product of Group 6 per 1 % by weight of milkfat contained in cheese assimilated to that pilot product in accordance with Article 1 (2) (f), second indent, shall correspond to the fat part of 100 kg of the cheese ;'.

*Article 2*

Article 2 of Regulation (EC) No 1651/94 is replaced by the following :

*'Article 2*

Article 1 (2) does not apply to exports for which a certificate of advance fixing of the rate of the refund has been delivered before the entry into force of the present Regulation for 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 (*), as last amended by Regulation (EC) No 3423/93 (**).

(*) OJ No L 329, 24. 12. 1979, p. 1.
(**) OJ No L 312, 15. 12. 1993, p. 8.'

*Article 3*

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

It is applicable from 1 September 1994.

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

Done at Brussels, 23 September 1994.

*For the Commission*
Martin BANGEMANN
*Member of the Commission*