COMMISSION REGULATION (EC) No 958/94

of 28 April 1994

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 Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals [1], as amended by Regulation (EEC) No 2193/93 [2], and in particular the third subparagraph of Article 13 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 1544/93 [4], and in particular the first sentence of the fourth subparagraph of Article 17 (2) thereof,

Whereas Article 13 (1) of Regulation (EEC) No 1766/92 and Article 17 (1) of Regulation (EEC) No 1418/76 provide 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 (EC) No 776/94 [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 1766/92 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 Commission Regulation (EEC) No 1722/93 of 30 June 1993 laying down detailed rules for the arrangements concerning production refunds in the cereals and rice sectors [7], 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 which avoids the risk of fraud;

Whereas Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural products [8], as amended by Regulation (EEC) No 2026/83 [9], 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 [10], as last amended by Regulation (EEC) No 2805/93 [11], lay down rules on the advance payment of export refunds that must be adhered to when these are adjusted;

Whereas, now that a settlement has been reached between the European 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 [12], it is necessary to differentiate the refund on goods falling within CN codes 1902 11 00 and

[1] OJ No L 181, 1. 7. 1992, p. 21.
[2] OJ No L 196, 5. 8. 1993, p. 22.
[3] OJ No L 166, 25. 6. 1976, p. 1.
[4] OJ No L 154, 25. 6. 1993, p. 5.
[5] OJ No L 323, 29. 11. 1980, p. 27.
[6] OJ No L 91, 8. 4. 1994, p. 6.
[7] OJ No L 159, 1. 7. 1993, p. 112.
[8] OJ No L 62, 7. 3. 1980, p. 5.
[9] OJ No L 199, 22. 7. 1983, p. 12.
[10] OJ No L 351, 14. 12. 1987, p. 1.
[11] OJ No L 256, 14. 10. 1993, p. 7.
[12] OJ No L 275, 29. 9. 1987, p. 36.

1902 19 according to their destination;

Whereas, for the application of Article 4 (2) (b) of Regulation (EEC) No 3035/80, it is necessary to differentiate the refunds;

Whereas Council Regulation (EEC) No 990/93 (1) prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

Whereas in particular the export refund for unprocessed starches falling within CN code 1108 is granted only if the dry matter content is at least 77 % in the case of potato starch and at least 84 % in the case of cereal starches;

Whereas with regard to potatoes, only potato starches are subject to common organization of the market, consequently steps should be taken to specify the terms that these potato starches should meet in order to qualify for refunds;

Whereas, in respect of glucose syrup and maltodextrine syrup, the dry extract content for which the rate of refund is set should be specified;

Whereas the refunds fixed for March 1994 have been continued in April without change; whereas according to Article 13 (4) of Regulation (EEC) No 1766/92 and Article 17 (4) of Regulation (EEC) No 1418/76 operators who have fixed in advance the rate of refund have a right to the adaptation of that rate according to the threshold price in force in the month of export; that such adaptation is not provided for traders who export without having fixed the rate in advance; whereas to ensure equal conditions for all operators who export in April 1994 it is necessary to apply the monthly increase to the rates applied in April 1994;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

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 1766/92 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 1766/92 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 1 to Regulation (EEC) No 1722/93 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 form a production refund as provided for in Regulation (EEC) No 1722/93, 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 1722/93 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

1. The refund for starches and potato starch falling within CN code 1108 or products falling within Annex A to Regulation (EEC) No 1766/92 resulting from the processing of these starches and potato starch is granted only on production of a declaration from the suppliers of those products attesting that they have been directly produced from cereals, potatoes or rice excluding all use of subproducts obtained in the production of other agricultural products or goods.

The above declaration can be considered valid, until revocation, for all supplies from the same producer; it shall be verified in accordance with the provisions of Article 8 (1) and the first indent of paragraph 2 of Regulation (EEC) No 3035/80.

(1) OJ No L 102, 28. 4. 1993, p. 14.

2. Where the dry-extract content of potato starch assimilated to maize starch pursuant to Article 1 (2) (a) of Regulation (EEC) No 3035/80 is 80 % or higher, the rate of the export refund shall be as laid down in the Annex; where the dry-extract content is less than 80 % the rate of the refund shall be the amount laid down in the Annex multiplied by 1/80th of the actual dry-extract percentage.

For all other starches with a dry-extract content of 87 % or more, the rate of the export refund shall be as laid down in the Annex; where the dry-extract content is less then 87 % the amount of the refund shall be the rate laid down in the Annex multiplied by 1/87th of the actual dry-extract percentage.

3. For the purposes of paragraph 1 above, the dryextract content of starches shall be determined using the method applied to flour in Annex II to Commission Regulation (EEC) No 1908/84 [1], as last amended by Regulation (EEC) No 2507/87 [2].

4. At the time of application for the export refund for the goods the applicant must declare the dry-extract content of the starches concerned, unless this information has been recorded by the competent authorities referred to in Article 3 (2) of Regulation (EEC) No 3035/80, in accordance with the provisions of that paragraph.

Article 3

1. If the dry extract content of glucose syrup or maltodextrine syrup falling within CN code 1702 30 59, 1702 30 99, 1702 40 90, 1702 90 50 or 2106 90 55 is greater than or equal to 78 %, the rate of refund shall be that set in accordance with the Annex; if the dry extract content of the said syrups is less than 78 %, the rate applied shall be equal to the rate of refund set in accordance with the Annex multiplied by the actual percentage of dry extract and divided by 78.

2. For the purposes of the preceding paragraph, the dry matter content of glucose syrup or maltodextrine syrup shall be determined in accordance with Method 2 described in Annex II to Council Directive 79/796/EEC [3], or in accordance with any other appropriate method of analysis which offer at least the same guarantees.

3. When applying for the export refund, the applicant must state the dry extract content of the glucose syrup and maltodextrine syrup used, unless this information has been recorded by the competent body referred to in Article 3 (2) of Regulation (EEC) No 3035/80, as provided for in that paragraph.

Article 4

This Regulation shall enter into force on 29 April 1994.

At the request of the interested party, it shall apply with effect from 1 April 1994.

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

Done at Brussels, 28 April 1994.

For the Commission
Martin BANGEMANN
Vice-President

[1] OJ No L 178, 5. 7. 1984, p. 22.
[2] OJ No L 235, 20. 8. 1987, p. 10.
[3] OJ No L 239, 22. 9. 1979, p. 24.

ANNEX

to the Commission Regulation of 28 April 1994 fixing the rates of the refunds applicable to certain cereals and rice products exported in the form of goods not covered by Annex II to the Treaty

CN code	Description of products (1)	Rate of refund per 100 kg of basic product (2)
1001 10 00	Durum wheat :	
	– used unprocessed :	
	– – on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	—
	– – in all other cases	—
	– used in the form of :	
	– – pellets of CN code 1103, or grains otherwise worked (other than hulled, kibbled, or germ) of CN code 1104	—
	– – hulled grains of CN code 1104 and starch of CN code 1108	—
	– – germ of CN code 1104	—
	– – gluten of CN code 1109	—
	– – other (except flours of CN code 1101 and groats and meal of CN code 1103)	—
1001 90 99	Common wheat and meslin :	
	– used unprocessed :	
	– – on exports of goods falling within CN code 1902 11 and 1902 19 to the United States of America	2,166
	– – in all other cases	3,610
	– used in the form of :	
	– – pellets of CN code 1103, or grains otherwise worked (other than hulled, kibbled, or germ) of CN code 1104	2,166
	– – hulled grains of CN code 1104 and starch of CN code 1108	3,249
	– – germ of CN code 1104	1,263
	– – gluten of CN code 1109	—
	– – other (except flours of CN code 1101, and groats and meal of CN code 1103	3,610
1002 00 00	Rye :	
	– used unprocessed	3,610
	– used in the form of :	
	– – pellets of CN code 1103, or pearled grains of CN code 1104	2,166
	– – rolled or flaked grains and hulled grains of CN code 1104	3,249
	– – germ of CN code 1104	1,295
	– – starch of CN code 1108 19 90	3,700
	– – gluten of CN code 2303 10 90	—
	– – other (except flours of CN code 1102)	3,610
1003 00 90	Barley :	
	– used unprocessed	6,966
	– used in the form of :	
	– – flours of CN code 1102, groats and meal of CN code 1103, or rolled, flaked or pearled grains of CN code 1104	4,876
	– – pellets of CN code 1103	4,179
	– – germs of CN code 1104	1,295
	– – starch of CN code 1108 19 90	3,700
	– – gluten of CN code 2303 10 90	—
	– – other	6,966

CN code	Description of products (1)	Rate of refund per 100 kg of basic product (2)
1004 00 00	Oats :	
	– used unprocessed	6,583
	– used in the form of :	
	– – pellets of CN code 1103, and pearled grains of CN code 1104	3,950
	– – rolled or flaked grains and hulled grains of CN code 1104	5,924
	– – germs of CN code 1104	1,295
	– – starch of CN code 1108 19 90	3,700
	– – gluten of CN code 2303 10 90	—
	– – other	6,583
1005 90 00	Maize (Corn) :	
	– used unprocessed	3,700
	– used in the form of :	
	– – flours of CN codes 1102 20 10 and 1102 20 90	2,590
	– – groats and meal of CN code 1003 and rolled or flaked grains of CN code 1104	2,960
	– – pellets of CN code 1103	2,220
	– – hulled or perled grains of CN code 1104	3,330
	– – germs of CN code 1104	1,295
	– – starch of CN code 1108 12 00	3,700
	– – gluten of CN code 2303 10 11	1,480
	– – other (3)	3,700
1006 20	Round grain husked rice	19,962
	Medium grains husked rice	17,772
	Long grain husked rice	17,772
ex 1006 30	Round grain wholly-milled rice	25,757
	Medium grain wholly-milled rice	25,757
	Long grain wholly-milled rice	25,757
1006 40 00	Broken rice :	
	– used unprocessed	5,657
	– used in the form of :	
	– – flour of CN code 1102 30, groats and meal or pellets of CN code 1103	5,657
	– – flaked grains of CN 1104 19 91	3,394
	– – starch of CN code 1108 19 10	5,657
	– – other	—
1007 00 90	Sorghum	6,583
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	2,664
	– in all other cases	4,440
1102 10 00	Rye flour	4,945
1103 11 10	Groats and durum wheat meal :	
	– on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	—
	– in all other cases	—
1103 11 90	Common wheat groats and spelt :	
	– on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	2,664
	– in all other cases	4,440

(1) The quantities of semi-processed products used must be multiplied, as the case may be, by the coefficients shown in Annex I to Commission Regulation (EEC) No 1620/93 (OJ No L 155, 26. 6. 1993, p. 29).

(2) Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in Regulation (EEC) No 990/93 are observed.

(3) For syrups of CN codes 1702 30 99, 1702 40 90 and 1702 60 90, obtained from mixing glucose and fructose syrup, the export refund may be granted only for the glucose syrup.