COMMISSION REGULATION (EC) No 1372/95

of 16 June 1995

laying down detailed rules for implementing the system of export licences in the poultrymeat sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organization of the market in poultrymeat (1), as last amended by the Act of Accession of Austria, Finland and Sweden and by Regulation (EC) No 3290/94 (2), and in particular Articles 3 (2), 8 (12) and 15 thereof,

Having regard to Council Regulation (EC) No 3290/94 of 22 December 1994 on the adjustments and transitional arrangements required in the agricultural sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations, and in particular Article 3 (1) thereof,

Whereas Regulation (EEC) No 2777/75 provides that from 1 July 1995 all exports for which export refunds are requested, with the exception of exports of day-old chicks, shall be subject to the presentation of an export licence with advance fixing of the refund; whereas therefore specific implementing rules should be laid down for the poultrymeat sector which should, in particular, include provisions for the submission of the applications and the information which must appear on the applications and licences, in addition to those contained in Commission Regulation (EEC) No 3719/88 of of 16 November 1988 laying down common detailed rules for the application of the system of import and export licences and advance fixing licences for agricultural products (3), as last amended by Regulation (EC) No 1199/95 (4);

Whereas, in order to assure proper administration of the system, the rate of the security for export licences under the said system should be fixed; whereas in view of the risk of speculation inherent in the system in the poultrymeat sector, export licences should not be transferable and precise conditions governing access by traders to the said system should be laid down; whereas it is necessary for particular conditions of access in the case of export licences for certain traditional markets in order to limit speculative applications which could put at risk the production which is specifically destined for those markets for a transitional period;

Whereas Article 8 (11) of Regulation (EEC) No 2777/75 provides that compliance with the obligations arising from agreements concluded during the Uruguay Round of multilateral trade negotiations regarding the export volume shall be ensured on the basis of the export licences; whereas therefore a detailed schedule for the lodging of applications and for the issuing of licences should be laid down;

Whereas, in addition, the decision regarding applications for export licences should be communicated only after a period of consideration; whereas this period would allow the Commission to appreciate the quantities applied for as well as the expenditure involved and, if appropriate, to take specific measures applicable in particular to the applications which are pending; whereas it is in the interest of traders to allow the licence application to be withdrawn after the acceptance coefficient has been fixed;

Whereas, in the case of applications concerning quantities equal to or less than 25 tonnes, the export licence should be issued immediately if the trader requests it; whereas these licences, however, should benefit from refunds only in accordance with the measures which the Commission might possibly have taken for the period in question;

Whereas in order to ensure an exact follow up of the quantities to be exported, a derogation from the rules regarding the tolerances laid down in Regulation (EEC) No 3719/88 should be laid down;

Whereas the Commission must dispose of precise information concerning applications for licences and of the use of licences issued, in order to be able to manage this system; whereas, in the interests of efficient administration, the notifications from Member States to the Commission should be made according to a uniform model;

Whereas to avoid any interruption of exports at the time of entry into force of the Agreement on Agriculture of the Uruguay Round, authorization should be given for export licences to be applied for and issued before the date of the entry into force of this Agreement, but for use after that date;

Whereas Article 8 (6) of Regulation (EEC) No 2777/75 provides that for day-old chicks export refunds may be granted on the basis of an 'ex-post' export licence; whereas therefore implementing rules for such a system should be laid down with the aim of ensuring efficient verification that the obligations arising from the agreements concluded in the framework of the Uruguay Round

(1) OJ No L 282, 1. 11. 1975, p. 77.
(2) OJ No L 349, 31. 12. 1994, p. 105.
(3) OJ No L 331, 2. 12. 1988, p. 1.
(4) OJ No L 119, 30. 5. 1995, p. 4.

negotiations are complied with; whereas, however, it would appear unnecessary to require the lodging of a security in the case of licences applied for after exportation;

Whereas the provisions of Commission Regulation (EEC) No 572/73 of 26 February 1973 establishing egg and poultrymeat products eligible for the advance fixing of export refunds [1], as last amended by Regulation (EC) No 3501/93 [2], and of Commission Regulation (EEC) No 3652/81 of 18 December 1981 laying down detailed rules for implementing the system of advance fixing certificates for refunds in the poultrymeat and eggs sector [3], as last amended by Regulation (EC) No 1030/95 [4], are replaced by the provisions of this Regulation and of Commission Regulation (EEC) No 1371/95 [5] laying down detailed rules for implementing the system of export licences in the egg sector; whereas the abovementioned Regulations should therefore be repealed as from the date of entry into force of the Agreement on Agriculture of the Uruguay Round;

Whereas the Management Committee for Poultrymeat and Eggs has not delivered an opinion within the time limit set by the chairman,

HAS ADOPTED THIS REGULATION:

Article 1

As from 1 July 1995, all exports of products in the poultrymeat sector for which an export refund is requested, with the exception of chicks falling within CN codes 0105 11 and 0105 19, shall be subject to the presentation of an export licence with advance fixing of the refund, in accordance with the provisions of Articles 2 to 8.

Article 2

1. Export licences shall be valid from the date of issue, within the meaning of Article 21 (1) of Regulation (EEC) No 3719/88, until the end of the second month following that date.

2. Applications for licences and licences shall bear, in section 15, the description of the product and, in section 16, the 11-digit product code of the agricultural product nomenclature for export refunds.

3. The categories of products referred to in the second subparagraph of Article 13a of Regulation (EEC) No 3719/88, as well as the rate of the security for export licences, are set out in Annex I.

4. Applications for licences and licences shall bear, in section 20, at least one of the following:

— Reglamento (CE) nº 1372/95,
— Forordning (EF) nr. 1372/95,
— Verordnung (EG) Nr. 1372/95,
— Κανονισμός (ΕΚ) αριθ. 1372/95,
— Regulation (EC) No 1372/95,
— Règlement (CE) nº 1372/95,
— Regolamento (CE) n. 1372/95,
— Verordening (EG) nr. 1372/95,
— Regulamento (CE) nº 1372/95,
— Asetus (EY) N:o 1372/95,
— Förordning (EG) nr 1372/95.

Article 3

1. Applications for export licences must be lodged with the competent authorities form Monday and Wednesday of each week.

2. Applicants for export licences must be natural or legal persons who, at the time applications are submitted, are able to prove to the satisfaction of the competent authorities in the Member States that they have been engaged in trade in the poultrymeat sector for at least 12 months. However, retail establishments or restaurants selling their products to end consumers may not lodge applications.

As regards exports to countries referred to in Annex IV, until 30 June 1996 export licences may be applied for only by natural or legal persons who are able to prove to the satisfaction of the competent authorities in the Member States that they have exported not less than 1 000 tonnes of products falling within CN codes 0207, 1602 20, 1602 31 and 1602 39 in each of the two calendar years preceding the year in which the licence application was lodged.

3. Export licences are issued on the Monday following the period referred to in paragraph 1, provided that none of the particular measures referred to in paragraph 4 have since been taken by the Commission.

4. Where applications for export licences concern quantities and/or expenditure which exceed the normal trade patterns or where there is a risk that they will be exceeded, taking account of the limits referred to in Article 8 (11) of Regulation (EC) No 2777/75 and/or the corresponding expenditure during the period in question, the Commission may:

— set a single percentage by which the quantities applied for are accepted,
— refuse the applications for which export licences have not yet been awarded,
— suspend the lodging of applications for export licences for a maximum of five working days. A suspension for a longer period may be decided in accordance with

[1] OJ No L 56, 1. 3. 1973, p. 6.
[2] OJ No L 319, 21. 12. 1993, p. 25.
[3] OJ No L 364, 19. 12. 1981, p. 19.
[4] OJ No L 103, 6. 5. 1995, p. 36.
[5] See page 16 of this Official Journal.

the procedure provided for in Article 17 of Regulation (EEC) No 2777/75. In these cases, applications for export licences lodged during the suspension period shall be inadmissible.

These measures may be adjusted according to the category of product.

5. Where quantities applied for are rejected or reduced, the security shall be released immediately for all quantities for which an application was not satisfied.

6. Notwithstanding paragraph 3, where a single percentage of acceptance less than 80 per cent is set, the licence shall be issued at the latest by the 11th working day following publication of that percentage in the *Official Journal of the European Communities.* During the 10 working days following its publication, the operator may:

— either withdraw his application, in which case the security is released immediately,

— or request immediate issuing of the licence, in which case the competent authority shall issue it without delay but no sooner than the Monday following the lodging of the licence application.

Article 4

1. Where the applications referred to in Article 3 (1) relate to 25 tonnes or less, and if the operator requests it at the same time, the competent authority shall immediately issue the licence applied for by indicating in section 22 at least one of the following:

— Certificado de exportación sin perjuicio de medidas especiales de conformidad con el apartado 4 del artículo 3 del Reglamento (CE) nº 1372/95,

— Eksportlicens udstedt med forbehold af særforanstaltninger i henhold til artikel 3, stk. 4, i forordning (EF) nr. 1372/95,

— Ausfuhrlizenz, erteilt unter Vorbehalt der besonderen Maßnahmen gemäß Artikel 3 Absatz 4 der Verordnung (EG) Nr. 1372/95,

— Πιστοποιητικό εξαγωγής που εκδίδεται με την επιφύλαξη των ειδικών μέτρων σύμφωνα με το άρθρο 3 παράγραφος 4 του κανονισμού (ΕΚ) αριθ. 1372/95,

— Export licence issued subject to any particular measures taken under Article 3 (4) of Regulation (EC) No 1372/95,

— Certificat d'exportation délivré sous réserve de mesures particulières conformément à l'article 3 paragraphe 4 du règlement (CE) nº 1372/95,

— Titolo d'esportazione rilasciato sotto riserva d'adozione di misure specifiche a norma dell'articolo 3, paragrafo 4 del regolamento (CE) n. 1372/95,

— Uitvoercertificaat afgegeven onder voorbehoud van bijzondere maatregelen zoals bedoeld in artikel 3, lid 4, van Verordening (EG) nr. 1372/95,

— Certificado de exportação emitido sem prejuízo de medidas especiais em conformidade com o nº 4 do artigo 3º do Regulamento (CE) nº 1372/95,

— Vientitodistus myönnetty, jollei asetuksen (EY) N:o 1372/95 3 artiklan 4 kohdan mukaisista erityistoimenpiteistä muuta johdu,

— Exportlicens utfärdad med förbehåll för särskilda åtgärder med stöd av artikel 3.4 i förordning (EG) nr 1372/95.

2. From the Monday following the week during which the applications referred to in Article 3 (1) were lodged, the competent authority, upon the request of the operator concerned, shall, in the light of the particular measures taken under Article 3 (4) for the week in question, amend the licence issued. To this end, it shall cancel the indication referred to in paragraph 1 and shall indicate in section 22 at least one of the following:

(a) if particular measures have not been taken or if a single percentage of acceptance has been set:

— Certificado de exportación con fijación anticipada de la restitución por una cantidad de [...] toneladas de los productos que se indican en las casillas 17 y 18,

— Eksportlicens med forudfastsættelse af eksportrestitution for en mængde på [...] tons af de i rubrik 17 og 18 anførte produkter,

— Ausfuhrlizenz mit Vorausfestsetzung der Erstattung für eine Menge von [...] Tonnen der in Feld 17 und 18 genannten Erzeugnisse,

— Πιστοποιητικό εξαγωγής που περιλαμβάνει τον προκαθορισμό της επιστροφής για μία ποσότητα [...] τόνων προϊόντων που εμφαίνονται στα τετραγωνίδια 17 και 18,

— Export licence with advance fixing of the refund for a quantity of [...] tonnes of the products shown in sections 17 and 18,

— Certificat d'exportation comportant fixation à l'avance de la restitution pour une quantité de [...] tonnes de produits figurant aux cases 17 et 18,

— Titolo d'esportazione recante fissazione anticipata della restituzione per un quantitativo di [...] t di prodotti indicati nelle caselle 17 e 18,

— Uitvoercertificaat met vaststelling vooraf van de restitutie voor [...] ton produkt vermeld in de vakken 17 en 18,

— Certificado de exportação com prefixação da restituição para uma quantidade de [...] toneladas de produtos constantes das casas 17 e 18,

— Vientitodistus, johon sisältyy tuen ennakkovahvistus [...] tonnille kohdassa 17 ja 18 mainittuja tuotteita,

— Exportlicens med förutfastställelse av exportbidrag för en kvantitet av [...] ton av de produkter som nämns i fält 17 och 18.

(b) if the applications for licences have been rejected :

— Certificado de exportación sin derecho a restitución,

— Eksportlicens, der ikke giver ret til eksportrestitution,

— Ausfuhrlizenz ohne Anspruch auf Erstattung,

— Πιστοποιητικό εξαγωγής χωρίς δικαίωμα για οποιαδήποτε επιστροφή,

— Export licence without entitlement to any refund,

— Certificat d'exportation ne donnant droit à aucune restitution,

— Titolo d'esportazione che non dà diritto ad alcuna restituzione,

— Uitvoercertificaat dat geen recht op een restitutie geeft,

— Certificado de exportação que não dá direito a qualquer restituição,

— Vientitodistus ei oikeuta tukeen,

— Exportlicens som inte ger rätt till exportbidrag.

3. Exports which are effected on the basis of licences issued under this Article shall benefit from a refund only in accordance with the indication inserted under point (a) of paragaph 2.

Article 5

Export licences shall not be transferable.

Article 6

The quantity exported within the tolerance referred to in Article 8 (4) of Regulation (EEC) No 3719/88 shall not give entitlement to payment of the refund.

In section 22 of the licence, at least one of the following shall be indicated :

— Restitución válida por [...] toneladas (cantidad por la que se expida el certificado),

— Restitutionen omfatter [...] t (den mængde, licensen vedrører),

— Erstattung gültig für [...] Tonnen (Menge, für welche die Lizenz ausgestellt wurde),

— Επιστροφή ισχύουσα για [...] τόνους (ποσότητα για την οποία έχει εκδοθεί το πιστοποιητικό),

— Refund valid for [...] tonnes (quantity for which the licence is issued),

— Restitution valable pour [...] tonnes (quantité pour laquelle le certificat est délivré),

— Restituzione valida per [...] t (quantitativo per il quale il titolo è rilasciato),

— Restitutie geldig voor [...] ton (hoeveelheid waarvoor het certificaat wordt afgegeven),

— Restituição válida para [...] toneladas (quantidade relativamente à qual é emitido o certificado),

— Tuki on voimassa [...] tonnille (määrä, jolle todistus on myönnetty),

— Ger rätt till exportbidrag för [...] ton (den kvantitet för vilken licensen utfärdats).

Article 7

1. Member States shall communicate to the Commission, each Wednesday from 1 p.m., by fax :

(a) the applications for export licences with advance fixing of refunds referred to in Article 1 which were lodged from Monday to Wednesday of the same week ;

(b) the quantities for which export licences have been issued on the preceding Monday ;

(c) the quantities for which applications for export licences have been withdrawn under Article 3 (6) during the preceding week.

2. The notification of the applications referred to in point (a) of paragraph 1 shall specify :

— the quantity in product weight for each category referred to in Article 2 (3),

— the breakdown by destination of the quantity for each category in the case where the rate of refund varies according to the destination,

— the rate of refund applicable,

— the total amount of refund prefixed in ECU per category.

3. Member States shall communicate to the Commission on a monthly basis following the expiry of validity of export licences the quantity of unused export licences.

4. Applications referred to in paragraphs 1 and 3, including 'nil' notifications, shall be made in accordance with the model set out in Annex II.

Article 8

Applications for export licences to be used for exports as from 1 July 1995, may be lodged as from 19 June 1995.

Article 9

1. For chicks falling within CN codes 0105 11 and 0105 19, operators shall declare at the time when customs formalities for exports are fulfilled, that they intend to claim an export refund.

2. Not later than one working day after exporting, operators shall lodge with the competent authority the application for an 'ex-post' export licence for the chicks exported. In section 22 of the licence application and of the licence, shall be indicated the term 'ex-post' together with the customs office where customs formalities have been fulfilled as well as the date on which they took place.

By derogation from Article 14 (2) of Regulation (EEC) No 3719/88 no security shall be required.

3. Member States shall communicate to the Commission, each Monday before 1 p.m., by fax, the number of 'ex-post' export licences applied for or the absence of such applications, during the preceding week. The notifications shall be made in accordance with the model set out in Annex III and shall specify, where applicable, the details referred to in Article 7 (2).

4. 'Ex-post' export licences shall be issued each following Wednesday, provided that none of the particular measures referred to in Article 3 (4) are taken by the Commission after the export concerned. Where such measures are taken they shall apply to the exports already carried out.

This licence accords entitlement to payment of the refund applicable on the day on which the customs formalities for exports were fulfilled.

5. Article 22 of Regulation (EEC) No 3719/88 shall not apply to the 'ex-post' licences referred to in paragraphs 1 to 4.

The licences shall be presented directly by the interested party to the agency in charge of the payment of export refunds. This agency shall attribute and stamp the licence.

Article 10

Regulations (EEC) No 572/73 and (EEC) No 3652/81 are repealed.

Regulation (EEC) No 3652/81 shall remain applicable, however, for advance fixing certificates issued before 1 July 1995 pursuant to that Regulation.

Article 11

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

It shall apply to the export licences referred to in Article 1 as from 19 June 1995.

The provisions of Articles 4, 9 and 10, however, shall apply from 1 July 1995.

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

Done at Brussels, 16 June 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

Product code of the agricultural product nomenclature for export refunds (1)	Category	Rate of the security ECU/100 kg Net weight
0105 11 11 000 0105 11 19 000 0105 11 91 000 0105 11 99 000 0105 19 90 000	1	—
0105 19 10 000	2	—
0207 21 10 900	3	15 (2) 4 (3)
0207 21 90 190	4	15 (2) 4 (3)
0207 22 10 000 0207 22 90 000	5	4
0207 41 11 900 0207 41 51 900 0207 41 71 190 0207 41 71 290	6	7
0207 42 10 990	7	7
0207 42 51 000 0207 42 59 000	8	3

(1) Commision Regulation (EEC) No 3846/87, part 8 (OJ No L 366, 24. 12. 1987, p. 1).
(2) For destinations shown in Annex IV.
(3) Other destinations.

ANNEX II

Application of Regulation (EC) No 1372/95

COMMISSION OF THE EUROPEAN COMMUNITIES — DG VI/D/3 – Poultrymeat sector

Application for export licences – Poultrymeat

Sender :

Date :

Period : Monday ... to Wednesday ...

Member State :

Person to contact :

Telephone :

Fax :

Addressee : DG VI/D/3 — fax : (322) 296 62 79 or 296 12 27

— Part A — Weekly notification (to complete separately for each category)

Category	Quantity	Destination	Rate of refund (ECU/100 kg)	Total amount of prefixed refunds
Total per category				

Category	Total quantities applied for by categories

— Part B — Weekly notification

Category	Total quantities issued by categories on Monday

— Part C — Weekly notification

Category	Total quantities withdrawn by categories during the previous week

— Part D — Monthly notification

Category	Unused quantities

ANNEX III

Application of Regulation (EC) No 1372/95

COMMISSION OF THE EUROPEAN COMMUNITIES — DG VI/D/3 — Poultrymeat sector

Application for *ex-post* export licences — Chicks

Sender :

Date :

Period : Monday... to Friday...

Member State :

Person to contact :

Telephone :

Fax :

Addressee : DG VI/D/3, fax : (322) 296 62 79 or 296 12 27

Weekly notification (to be completed separately for each category)

Category	Quantity	Destination	Rate of refund (ECU/100 pieces)	Total amount of prefixed refunds
Total per category				

Category	Total quantities applied for by categories

ANNEX IV

Angola
Egypt
Saudi Arabia
Kuwait
Bahrain
Qatar
Oman
United Arab Emirates
Jordan
Republic of Yemen
Lebanon
Syria