COMMISSION REGULATION (EC) No 1488/95

of 28 June 1995

on implementing rules for export refunds on fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables [1], as last amended by Commission Regulation (EC) No 1363/95 [2], and in particular Article 26 (11) thereof,

Having regard to Council Regulation (EC) No 3290/94 of 22 December 1994 on the adjustments and transitional arrangements required in the agriculture sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations [3], and in particular Articles 3 and 4 thereof,

Whereas Article 26 (6) of Regulation (EEC) No 1035/72 imposes an export licence requirement for the granting of refunds;

Whereas Commission Regulation (EEC) No 3719/88 [4], as last amended by Regulation (EC) No 1199/95 [5], sets detailed rules for application of the system of import and export licences and advance fixing certificates for agricultural products;

Whereas Commission Regulation (EEC) No 3846/87 [6], as last amended by Regulation (EC) No 836/95 [7], establishes an agricultural product nomenclature for export refunds;

Whereas Commission Regulation (EEC) No 3665/87 [8], as last amended by Regulation (EC) No 331/95 [9], lays down common detailed rules for the application of the system of export refunds on agricultural products; whereas these detailed rules must be supplemented by specific rules relating to fruit and vegetables;

Whereas, pursuant to Article 26 (1) of Regulation (EEC) No 1035/72, refunds are to be set with due regard to the limits resulting from agreements concluded in accordance with Article 228 of the Treaty;

Whereas the Commission must fix the refund rates and maximum quantities eligible for refunds; whereas these amounts and quantities must be fixed per period of allocation of export licences; whereas they may be revised on the basis of economic circumstances;

Whereas, to ensure that quantities for export can be very precisely managed, export licences should require refunds to be fixed in advance; whereas time should be allowed for consideration before licences are issued and details should be provided concerning the data to be notified to the Commission and the form this notification should take;

Whereas the Member States should designate the authorities responsible for issuing the licences;

Whereas the issue of licences should also be subject to the lodging of a security;

Whereas, within the tolerance limits, the exported quantity in respect of which refunds may be paid may not exceed the quantity applied for in the licence application;

Whereas, in order to maintain the flexibility which is a characteristic of exports in the fruit and vegetables sector, provision should be made for certain transactions to be eligible for a refund without advance fixing provided that a licence application is submitted *a posteriori*;

Whereas the Member States should regularly forward certain information on licence applications to the Commission;

Whereas Commission Regulation (EEC) No 497/70 of 17 March 1970 on rules for the application of export refunds on fruit and vegetables [10], as last amended by Regulation (EEC) No 2075/85 [11], should be repealed and certain of its provisions taken over into this Regulation;

Whereas action must be taken to ensure that exported products on which refunds are granted meet the relevant common quality standards and any national rules on the quality of fruit and vegetables exported to third countries;

[1] OJ No L 118, 20. 5. 1972, p. 1.
[2] OJ No L 132, 16. 6. 1995, p. 8.
[3] OJ No L 349, 31. 12. 1994, p. 105.
[4] OJ No L 331, 2. 12. 1988, p. 1.
[5] OJ No L 119, 30. 5. 1995, p. 4.
[6] OJ No L 366, 24. 12. 1987, p. 1.
[7] OJ No L 88, 20. 4. 1995, p. 1.
[8] OJ No L 351, 14. 12. 1987, p. 1.
[9] OJ No L 38, 18. 2. 1995, p. 1.
[10] OJ No L 62, 18. 3. 1970, p. 15.
[11] OJ No L 196, 26. 7. 1985, p. 25.

Whereas, in the case of victualling deliveries to vessels and aircraft treated as exports from the Community and so qualifying for export refunds, checking of each consignment would impose an administrative burden disproportionate to the small quantities of fruit and vegetables normally involved; whereas the checking of such deliveries should therefore be dispensed with subject to certain conditions;

Whereas, in accordance with Article 4 (3) of Commission Regulation (EEC) No 2251/92 of 29 July 1990 on quality inspection of fresh fruit and vegetables [1], as last amended by Regulation (EC) No 3148/94 [2], the above derogation is acceptable only for quantities of 500 kilograms of product or less;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The refund rates referred to in Article 26 (3) of Regulation (EEC) No 1035/72 for products on which export refunds are granted in the fruit and vegetables sector shall be set at the same as the quantities for which licences with advance fixing of the refund may be issued.

The Commission shall set indicative quantities for exports without advance fixing of the refund. For such exports, the rates referred to in the first subparagraph shall also have an indicative value.

2. The rates and quantities referred to in paragraph 1 shall be fixed for each licence allocation period.

3. Where necessary, the quantities may be revised on the basis of trends in Community production and the outlook for exports.

Article 2

Member States shall designate the agency or agencies responsible for issuing the export licences referred to in Article 26 (6) of Regulation (EEC) No 1035/72 and shall inform the Commission thereof.

Article 3

1. Exporters shall apply for licences with advance fixing of the refund to the competent authorities of the Member States with a view to the grant of a refund at the rate in force on the date of submission of the application.

Licence applications shall be accompanied by the lodging of a security equal to half the amount of the refund in force for the export in question on the day of application.

2. Licence applications and licences shall carry in box 16 the 11-figure product code of the agricultural product nomenclature for export refunds given in Regulation (EEC) No 3846/87.

On application this code may be replaced after the licence has been issued by another provided that the refund rate applicable is the same and the code is that of a product in the same category.

Category, within the meaning of the second paragraph of Article 13a of Regulation (EEC) No 3719/88, shall mean the following classes of products:

— tomatoes falling within CN code 0702 00,

— shelled almonds falling within CN code 0802 12,

— hazelnuts falling within CN codes 0802 21 and 0802 22,

— walnuts in shell falling within CN code 0802 31,

— oranges falling within CN code 0805 10,

— clementines falling within CN codes 0805 20 11, 0805 20 21 and 0805 20 31,

— monreales and satsumas falling within CN codes 0805 20 13, 0805 20 23 and 0805 20 33,

— mandarins and wilkings falling within CN codes 0805 20 15, 0805 20 25 and 0805 20 35,

— tangerines falling within CN codes 0805 20 17, 0805 20 27 and 0805 20 37,

— other similar citrus hybrids falling within CN codes 0805 20 19, 0805 20 29 and 0805 20 39,

— lemons falling within CN codes 0805 30 20, 0805 30 30 and 0805 30 40,

— limes falling within CN code 0805 30 90,

— table grapes falling within CN code 0806 10,

— apples falling within CN code 0808 10,

— peaches and nectarines falling within CN code 0809 30.

3. The following entry shall be made in box 22 of the licence:

— Restitución válida para ... *(cantidad por la que se haya expedido el certificado)* como máximo

— Restitutionen omfatter højst ... *(den mængde, licensen er udstedt for)*

— Erstattung gültig für höchstens ... *(Menge, für die die Lizenz erteilt wurde)*

[1] OJ No L 219, 4. 8. 1992, p. 9.
[2] OJ No L 332, 22. 12. 1994, p. 28.

— Επιστροφή που ισχύει για ... *(ποσότητα για την οποία εκδίδεται το πιστοποιητικό)* κατ' ανώτατο όριο

— Refund valid for not more than ... *(quantity for which licence issued)*

— Restitution valable pour ... *(quantité pour laquelle le certificat est délivré)* au maximum

— Restituzione valida al massimo per ... *(quantitativo per il quale è rilasciato il titolo)*

— Restitutie voor ten hoogste ... *(hoeveelheid waarvoor het certificaat is afgegeven)*

— Restituição válida para ... *(quantidade em relação à qual é emitido o certificado)*, no máximo

— Vientituki voimassa enintään ... *(määrä, jolle todistus on annettu)* osalta

— Bidrag som gäller för högst ... *(kvantitet för vilken licensen skall utfärdas)*.

Article 4

1. The Commission shall check, for each application lodgment day in turn, whether the total quantities applied for pursuant to Article 3 in each product category as referred to in Article 3 (2) exceed the quantity referred to in Article 1,

— less the quantities for which licences with advance fixing of the refund have been issued during the current issuing period, not including the licences issued for food aid as provided for in Article 10 (4) of the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations,

— less the quantities for which refunds have been granted without a licence pursuant to the second paragraph of Article 2a of Regulation (EEC) No 3665/87, according to the information available to the Commission,

— plus the quantities provided for in point (c) of Article 7,

— plus any quantities covered by applications withdrawn under paragraph 4 of this Article,

— plus any quantities for which licences have been issued but not used,

— plus any quantities not used within the tolerance provided for in Article 8 (5) of Regulation (EEC) No 3719/88.

If they do the Commission shall set a reduction percentage or decide to reject the applications.

2. Export licences shall be issued on the fifth working day following the day on which the application was lodged, provided that no specific measures as referred to in paragraph 1 have been taken in the interval.

3. Licences shall be valid for two months from the date of their issue.

However, in the case of licences for apples intended for Hong Kong, Singapore, Malaysia, Indonesia, Thailand, Taiwan, Papua New Guinea, Laos, Cambodia, Vietnam, Uruguay, Paraguay, Argentina, Mexico and Costa Rica, the duration of validity shall commence :

— on 15 July of the current year for licences issued from 15 May to 14 July,

— on the day of issue for licences issued from 15 July to the end of the following February,

and shall end :

— two months after the day of issue for licences issued from 15 May to 31 December,

— at the end of February for licences issued from 1 January to the end of February.

These dates shall be indicated as follows in box 22 of the licence :

— Certificado válido del *(fecha de comienzo del período de validez)* al *(fecha final del período de validez)*

— Licensen er gyldig fra *(gyldighedsperiodens begyndelse)* til *(gyldighedsperiodens ophør)*

— Lizenz gültig vom *(Beginn der Gültigkeitsdauer)* bis zum *(Ende der Gültigkeitsdauer)*

— Πιστοποιητικό που ισχύει από *(ημερομηνία έναρξης ισχύος)* έως *(ημερομηνία λήξης ισχύος)*

— Licence valid from *(date of commencement of validity)* to *(date of end of validity)*

— Certificat valable du *(date de début de validité)* au *(date de fin de validité)*

— Titolo valido dal *(data di decorrenza della validità)* al *(data di scadenza della validità)*

— Certificaat geldig van *(datum van de eerste dag van de geldigheidsduur)* tot en met *(datum van de laatste dag van de geldigheidsduur)*

— Certificado válido de *(data de início da validade)* a *(data de termo da validade)*

— Todistus voimassa *(voimassaolon alkamispäivämäärä)* *(voimassaolon päättymispäivämäärä)*

— Licens giltig från *(datum för giltighetstidens början)* till *(datum då giltighetstiden slutar)*.

The licences referred to in the second subparagraph shall not be issued during the period from 1 March to 14 May. The destination given on licences which are valid during part of the period from 1 March to 14 July for the export of apples to other destinations may not be changed to one of the countries listed in the second subparagraph.

4. Where a percentage reduction is fixed in accordance with paragraph 1, licence applications may be withdrawn within 10 working days of the date of publication of the percentage reduction. Such withdrawal shall entail release of the security. The security shall also be released where applications are refused.

5. Quantities exported within the tolerance provided for in Article 8 (4) of Regulation (EEC) No 3719/88 shall not be eligible for payment of a refund.

Article 5

1. Notwithstanding Article 3 of this Regulation and the first paragraph of Article 2a of Regulation (EEC) No 3665/87, exporters may apply for licences without advance fixing of the refund from the competent authorities of the Member States with a view to the grant of a refund.

However, in the case of licences for apples intended for Hong Kong, Singapore, Malaysia, Indonesia, Thailand, Taiwan, Papua New Guinea, Laos, Cambodia, Vietnam, Uruguay, Paraguay, Argentina, Mexico and Costa Rica, such applications shall only be admissible during the period from 15 July to the end of the following February.

2. The application must be made at the latest on the working day following the date on which the export declaration for the products was completed and must be accompanied by a copy of that declaration. The declaration must contain one of the following entries:

— Exportación por la que se presentará una solicitud *a posteriori* de certificado de exportación sin fijación anticipada de la restitución

— Udførsel, for hvilken der efterfølgende ansøges om eksportlicens uden forudfastsættelse af restitutionen

— Ausfuhr, für die nachträglich eine Ausfuhrlizenz ohne Vorausfestsetzung der Erstattung beantragt wird

— Εξαγωγή για την οποία θα υποβληθεί αίτηση εκ των υστέρων για την έκδοση πιστοποιητικού εξαγωγής χωρίς προκαθορισμό της επιστροφής

— Export to be the subject of an a posteriori application for an export licence without advance fixing of the refund

— Exportation qui fera l'objet d'une demande *a posteriori* de certificat à l'exportation sans fixation à l'avance de la restitution

— Esportazione che formerà oggetto di una domanda a posteriori di titolo di esportazione senza fissazione anticipata della restituzione

— Uitvoer waarvoor achteraf een uitvoercertificaat zonder vaststelling vooraf van de restitutie zal worden aangevraagd

— Exportação que será objecto de um pedido *a posteriori* de certificado de exportação sem prefixação da restituição

— Vienti, jota koskee sellainen vientitodistushakemus, joka jätetään jälkikäteen ja johon ei liity vientituen ennakkovahvistusta

— Export som kräver en ansökan i efterhand om exportlicens utan förutfastställelse av bidraget.

3. The licence application shall be accompanied by the lodging of a security equal in amount to half the product of the quantity exported multiplied by the indicative rate of the refund in force on the day of the application.

4. Licence applications and licences shall carry in box 16 the 11-figure product code of the agricultural product nomenclature for export refunds given in Regulation (EEC) No 3846/87 and in box 22 one of the following entries:

— Solicitud de certificado de exportación sin fijación anticipada de la restitución con arreglo al artículo 5 del Reglamento (CE) No 1488/95

— Ansøgning om eksportlicens uden forudfastsættelse af restitutionen, jf. artikel 5 i forordning (EF) nr. 1488/95

— Antrag auf Erteilung einer Ausfuhrlizenz ohne Vorausfestsetzung der Erstattung gemäß Artikel 5 der Verordnung (EG) Nr. 1488/95

— Αίτηση για την έκδοση πιστοποιητικού εξαγωγής χωρίς προκαθορισμό της επιστροφής σύμφωνα με το άρθρο 5 του κανονισμού (ΕΚ) αριθ. 1488/95

— Application for export licence without advance fixing of the refund in accordance with Article 5 of Regulation (EC) No 1488/95

— Demande de certificat d'exportation sans fixation à l'avance de la restitution conforme à l'article 5 du règlement (CE) n° 1488/95

— Domanda di titolo di esportazione senza fissazione anticipata della restituzione, conforme all'articolo 5 del regolamento (CE) n. 1488/95

— Aanvraag om uitvoercertificaat zonder vaststelling vooraf van de restitutie overeenkomstig artikel 5 van Verordening (EG) nr. 1488/95

— Pedido de certificado de exportação sem prefixação da restituição, nos termos do artigo 5º do Regulamento (CE) nº 1488/95

— Sellaista vientitodistusta koskeva hakemus, johon ei liity asetuksen N:o (EY) 1488/95 5 artiklan mukaisen vientituen ennakkovahvistusta

— Ansökan om exportlicens utan förutfastställelse av bidraget enligt artikel 5 i förordning (EG) nr 1488/95.

5. Export licences shall be issued on the tenth working day after the end of the current period of allocation of licences for that period. Box 22 of the licences shall contain one of the following entries, along with the

refund rate, amended if necessary in accordance with the first subparagraph of Article 6 (2), and the quantity, reduced if necessary by the reduction rate referred to in the second subparagraph of Article 6 (2):

— Exportación por la que se presentará una solicitud *a posteriori* de certificado de exportación sin fijación anticipada de la restitución

— Udførsel, for hvilken der efterfølgende ansøges om eksportlicens uden forudfastsættelse af restitutionen

— Ausfuhr, für die nachträglich eine Ausfuhrlizenz ohne Vorausfestsetzung der Erstattung beantragt wird

— Εξαγωγή για την οποία θα υποβληθεί αίτηση εκ των υστέρων για την έκδοση πιστοποιητικού εξαγωγής χωρίς προκαθορισμό της επιστροφής

— Export to be the subject of an a posteriori application for an export licence without advance fixing of the refund

— Exportation qui fera l'objet d'une demande *a posteriori* de certificat à l'exportation sans fixation à l'avance de la restitution

— Esportazione che formerà oggetto di una domanda a posteriori di titolo di esportazione senza fissazione anticipata della restituzione

— Uitvoer waarvoor achteraf een uitvoercertificaat zonder vaststelling vooraf van de restitutie zal worden aangevraagd

— Exportação que será objecto de um pedido *a posteriori* de certificado de exportação sem prefixação da restituição

— Vienti, jota koskee sellainen vientitodistushakemus, joka jätetään jälkikäteen ja johon ei liity vientituen ennakkovahvistusta

— Export som kräver en ansökan i efterhand om exportlicens utan förutfastställelse av bidraget.

However, if the reduction coefficient or the rate of refund, as referred to in Article 6, is zero, the applications shall be rejected and the securities released.

Article 6

1. At the end of each period of allocation of the licences referred to in Article 1, the Commission shall, using the information available to it, check for each product whether the quantities applied for pursuant to Article 5 outside the scope of the food aid provided for in Article 10 (4) of the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations exceed the indicative quantities provided for pursuant to Article 1, where necessary increased by the quantities set for licences with advance fixing of the refund and not used up, less the quantities referred to in Article 7 (b) and plus the quantities referred to in Article 7 (c).

2. Where this is the case, the Commission may reduce the coefficient of refund for those transactions.

In addition, so as to comply with the annual limits resulting from the agreements concluded in accordance with Article 228 of the Treaty, the Commission may set a rate of reduction for the quantities applied for.

Article 7

At the end of each period of allocation of the licences referred to in Article 1,

(a) the quantities of the products set for the issue of licences with advance fixing of the refund and not used up shall be added to the indicative quantities of the same products set for the same period;

(b) in the case referred to in the first subparagraph of Article 6 (2), the quantities having been the subject of an overrun shall be deducted from the quantities set for the following period;

(c) after application of points (a) and (b), quantities not used up of all products shall be added where necessary to those set for the following period, in proportion to the quantities and/or expenditure initially fixed for each product, and within the limits resulting from the agreements concluded in accordance with Article 228 of the Treaty.

Article 8

Member States shall notify to the Commission by fax, in accordance with the model in the Annex, not later than 12 o'clock (Brussels time) on Monday and Thursday of each week, information concerning, per working day, for each product category and for each destination:

— the quantities for which licences have been applied for, with or without advance fixing of the refund or, where applicable, the absence of applications,

— any quantities for which refunds have been granted without a licence pursuant to the second paragraph of Article 2a of Regulation (EEC) No 3665/87,

— any quantities covered by applications withdrawn under Article 4 (4),

— any quantities for which licences have been issued but not used,

— any quantities not used within the tolerance provided for in Article 8 (5) of Regulation (EEC) No 3719/88,

for the period up to the working day preceding the day of notification.

The quantities shall be broken down according to whether of not the fall within the scope of the food aid provided for in Article 10 (4) of the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations.

Article 9

1. In addition to the conditions provided for in Regulation (EEC) No 3665/87, refunds may not be paid unless the following is submitted :

— for products for which common quality standards have been set, the inspection certificate provided for in Article 4 (4) of Regulation (EEC) No 2251/92,

— for products for which common quality standards have not been set but national rules on the quality of fruit and vegetables exported from the Community are applicable, a document issued by the Member State's inspection agency certifying that at the time of inspection the products met the requirements.

2. However, in the case of fruit and vegetable deliveries as referred to in Article 34 (1) (a) of Regulation (EEC) No 3665/87, in so far as such deliveries concern quantities weighing 500 kilograms or less per product category, submission

— of the inspection certificate referred to in the first indent of paragraph 1,

or

— of the document referred to in the second indent of paragraph 1,

shall not be required for payment of the refund provided that the procedure indicated in Article 38 of that Regulation or in Council Regulation (EEC) No 565/80 on advance payment of export refunds on agricultural products [1] is not applied.

Article 10

Commission Regulation (EEC) No 497/70 [2] is hereby repealed. However, it shall remain applicable to licences issued prior to 1 July 1995 under that Regulation.

Article 11

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

However, Article 8 shall apply from 29 June 1995 and Articles 5, 6, 9 and 10 shall apply from 1 July 1995.

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

Done at Brussels, 28 June 1995.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ No L 62, 7. 3. 1980, p. 5.
[2] OJ No L 62, 18. 3. 1970, p. 15.

ANNEX

FORM FOR NOTIFICATION OF INFORMATION AS PROVIDED FOR IN ARTICLE 8 OF REGULATION (EC) No 1488/95

Member State :

Date on which applications were lodged :

Product	Destination	Export licence applications				Exports without licence		Applications withdrawn		Licences not used		Quantities not used	
		with advance fixing of the refund		without advance fixing of the refund									
		food aid (GATT)	other	food aid (GATT)	other	food aid (GATT)	other	food aid (GATT)	other	food aid (GATT)	other	food aid (GATT)	other