COMMISSION REGULATION (EC) No 2400/95

of 12 October 1995

amending Regulation (EC) No 1223/94 laying down special detailed rules for the application of the system of advance fixing certificates for certain agricultural products exported in the form of goods not covered by Annex II to the Treaty and amending Regulation (EC) No 2476/94

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], in particular the first subparagraph of Article 8 (3) and Article 20 thereof,

Whereas Council Regulation (EC) No 3290/94 [2] amended the provisions applicable to trade arrangements for agricultural products referred to in Article 1 of Commission Regulation (EC) No 1222/94 [3]; whereas in particular, as regards these agricultural products, non-compulsory advance fixing is provided for only in respect of exports in the form of goods not covered by Annex II to the Treaty; whereas the detailed rules must be drawn up in accordance with the procedure laid down in Article 16 of Regulation (EC) No 3448/93;

Whereas, in order to ensure proper management of the amounts which may be granted, certificates should only be issued after a period for consideration and the information to be notified to the Commission and the method to be used for that notification should be specified;

Whereas applications for advance fixing certificates involving moderate quantities of basis products do not pose serious risks to the forecasts of expenditure during a budgetary year;

Whereas an application for advance fixing at the beginning of a budgetary year has the same potential effect on overall expenditure in that year as an application lodged at the end of the year; whereas the issue of certificates should, therefore, be subject to the same rules throughout the year;

Whereas quantities exported as international food aid within the meaning of Article 10 (4) of the Uruguay Round Agreement on Agriculture should be identified;

Whereas the guarantee rates applicable to applications for certificates should be fixed;

Whereas the certificates issued under Commission Regulation (EC) No 1268/95 [4] are subject to prior verification; whereas for those certificates the obligation to make an export declaration by 13 October 1995 at the latest should not, therefore, be maintained for the products or goods covered by the rules laid down in either Article 4 or 5 of Regulation (EEC) No 565/80 [5];

Whereas Regulation (EC) No 1268/95 lays down that in the case of invitations to tender issued in third countries the deadline of 13 October 1995 no longer applies; whereas it should, therefore, be possible to replace certificates with that deadline;

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 to the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

Commission Regulation (EC) No 1223/94 [6] is amended as follows:

1. The text of Article 1 is replaced by the following:

   'Article 1

   This Regulation lays down, with respect to certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, special detailed rules for the application of the system of advance fixing certificates referred to in Article 5 (2) of Regulation (EC) No 1222/94.'

2. The text of Article 3 (1) is replaced by the following:

   '1. Applications for certificates shall be submitted in accordance with the conditions laid down in Article 15 of Regulation (EEC) No 3719/88.'

3. Point (c) of Article 3 (2) is deleted. The following paragraphs are added to the same Article:

[1] OJ No L 318, 20. 12. 1993, p. 18.
[2] OJ No L 349, 31. 12. 1994, p. 105.
[3] OJ No L 136, 31. 5. 1994, p. 5.
[4] OJ No L 123, 3. 6. 1995, p. 5.
[5] OJ No L 62, 7. 3. 1980, p. 5.
[6] OJ No L 136, 31. 5. 1994, p. 33.

'3. Certificates shall be issued on the fifth working day following the day on which the application is lodged unless special measures are taken during the intervening period.

The measures referred to in the previous subparagraph shall be the suspension of the advance fixing of refunds, the rejection of some or all applications, the acceptance of some or all applications or the revision of rates of refund.

In the event of acceptance by the Commission of some or all of the applications, the certificates shall be be issued before the five working days referred to in the first subparagraph have elapsed.

The competent authority shall advise the applicant without delay in the event of a revision of the rate of refund for the basic product for which the advance fixing certificate has been requested. The applicant may either withdraw the application, in which case the competent authority should release the security without delay, or accept the issue of the certificate at the revised rate of refund.

If the interested party does not respond, at the latest by the third working day following publication of the revised rate of refund, that party shall be deemed to have withdrawn the application for advance fixing.

4. By way of derogation from paragraph 3 certificates relating to applications for quantities lower than 20 tonnes in the case of butter (PG 6), 40 tonnes for other milk products and for products from the sugar and egg sectors and 200 tonnes in the case of other products shall be issued immediately, unless measures taken pursuant to Article 5 (3) of Regulation (EC) No 1222/94 provide otherwise.

5. Where use is made of the derogation provided in paragraph 4, the interested party may not lodge more than one application for each basic product on any one day with the same competent authority.'

4. In Article 4 (1), the first subparagraph is replaced by the following :

'1. The certificate shall be valid from its date of issue in accordance with the following :

— for products covered by the common organization of the markets in cereals, rice and eggs, until the end of the fifth month following that of issue, and

— for products covered by the common organization of the market in milk and milk products, until the end of the sixth month following that of issue, except for certificates issued for butter with a fat content of 82 % by weight (PG 6), which shall be valid until the end of the third month following that of issue.

For the purpose of determining its period of validity, the certificate shall be deemed to have been issued on the day on which the application was lodged ; and this day is included in the period of validity of the certificate.'

The last sentence of this paragraph is deleted.

5. Articles 6 to 8 are replaced by the following Articles :

'Article 6

Box 20 of the application for certificates and of certificates for food aid operations within the meaning of Article 10 (4) of the Agreement shall contain one of the following indications :

"Certificado GATT — Ayuda alimentaria"

"GATT-attest — Fødevarehjælp"

"GATT-Bescheinigung — Nahrungsmittelhilfe"

"Πιστοποιητικό ΓΣΔΕ — Επισιτιστική βοήθεια"

"GATT certificate — food aid"

"Certificat GATT — Aide alimentaire"

"Titolo GATT — Aiuto alimentare"

"GATT-certificaat — Voedselhulp"

"Certificado GATT — Ajuda alimentar"

"GATT-todistus — Elintarvikeapu"

"GATT-licens — Livsmedelsbistånd".

The provisions of Article 3 (3) shall not apply to such certificates.

Article 7

By way of derogation from Article 33 (2) of Regulation (EEC) No 3719/88, where a certificate is returned to the issuing body before the end of its period of validity, the security forfeit pursuant to Article 33 (2) of Regulation (EEC) No 3719/88 shall be reduced by 40 %.

Article 8

Member States shall notify the Commission :

— every Tuesday and Friday of the applications for certificates for each basic product or the absence of such applications, registered up to the working day preceding the notification and ;

— before the 15th of each month ;

— of the quantities for which certificates have been returned unused in the course of the preceding month, and

— of the certificates issued in the course of the preceding month, as referred to in Article 6.

The notifications shall distinguish between the certificates referred to in Article 3 (4) and the certificates subject to a maximum waiting period of five days referred to in Article 3 (3).'

6. In Article 9 the amounts of security are amended as follows:

— milk powder: ECU 2,50 is replaced by ECU 3;

— butter: ECU 5 is replaced by ECU 6;

— eggs: ECU 1,70 is replaced by ECU 2,1;

— products covered by Regulation (EEC) No 1766/92 (Cereals) or (EEC) No 1418/76 (rice), ECU 0,50 is replaced by ECU 0,80 for the products covered by Regulation (EEC) No 1766/92 and by ECU 2,1 for the products covered by Regulation (EEC) No 1418/76;

— products covered by Regulation (EEC) No 1785/81 (sugar): ECU 4,5.

Article 2

Commission Regulation (EC) No 2476/94 [1] is amended as follows:

1. The text of Article 1 is replaced by the following:

'*Article 1*

The validity of advance fixing certificates requested before 13 October 1995 pursuant to Regulation (EC) No 1223/94 whose period of validity following the application of Article 4 of that Regulation goes beyond 15 October 1995 shall be limited to 13 October 1995.'

2. The text of Article 2 is replaced by the following:

'*Article 2*

Products or goods which on 13 October 1995 are covered by one of the arrangements referred to in Articles 4 and 5 of Regulation (EEC) No 565/80 and which have been the subject of advance fixing of the refund on the basis of certificates issued pursuant to Regulation (EC) No 1223/94 shall be subject on that date to the export declaration within the meaning of Article 30 of Commission Regulation (EEC) No 3665/87.'

3. The following subparagraph is added to paragraph 3a:

'An interested party in possession of an advance fixing certificate valid until 13 October 1995, who under the preceding paragraph has the period of validity of this certificate extended may request a replacement certificate for the remaining quantity. The validity of this replacement certificate shall not extend beyond the date on which the first certificate would have been valid in the absence of the provisions of Article 1.'

Article 3

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

Article 1 shall apply with effect from 16 October 1995 and Article 2 shall apply immediately.

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

Done at Brussels, 12 October 1995.

For the Commission

Martin BANGEMANN

Member of the Commission

[1] OJ No L 264, 14. 10. 1994, p. 9.