COMMISSION REGULATION (EC) No 2452/95

of 19 October 1995

amending Commission Regulation (EC) No 1466/95 laying down special detailed rules of application for export refunds on milk and milk products and Commission Regulation (EEC) No 210/69 on communications between Member States and the Commission with regard to milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products (1), as last amended by Regulation (EC) No 1538/95 (2), and in particular Article 17 (14) thereof,

Whereas Commission Regulation (EC) No 1466/95 (3) lays down special detailed rules of application for export refunds on milk and milk products; whereas experience has shown that certain technical amendments are necessary in order to ensure that the scheme operates satisfactorily, in particular as regards the date of commencement of validity of licences, cases where a refund may be granted without presentation of an export licence, and the application of the provisions of Regulation (EEC) No 3665/87 (4), as last amended by Regulation (EC) No 1384/95 (5), concerning licences specifying a compulsory destination; whereas, in order to preclude discriminatory treatment of traders, the amendments to the above provisions should be made retroactive;

Whereas, with regard to the additional quota of Community cheeses for export to the United States arising under the Agreement on Agriculture concluded during the Uruguay Round of the GATT trade negotiations (hereinafter referred to as the 'Agreement'), the Community may designate preferred importers who may import under the quota; whereas this allows the Community to maximize the value of the quota; whereas a procedure should be laid down therefore for the selection of the importers to be designated on the basis of the allocation of export licences for the products concerned; whereas it is necessary therefore to amend Commission Regulation (EEC) No 210/69 of 31 January 1969 on communications between Member States and the Commission with regard to milk and milk products (6), as last amended by Regulation (EC) No 1629/95 (7);

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1466/95 is hereby amended as follows:

1. In Article 2, the text of the first indent is replaced by the following:

'— where the refund for an export declaration, calculated on the basis of the refund applicable on the first day of the month of export, is not more than ECU 60. Where several separate codes in the nomenclature for refunds or the combined nomenclature are shown in an export declaration, the particulars relating to each code shall be deemed to constitute a separate declaration;'.

2. In the opening sentence of the first paragraph of Article 4, '(2)' is replaced by '(1)'.

3. The following Article 9a is inserted:

'Article 9a

1. In accordance with the procedure provided for in Article 30 of Regulation (EEC) No 804/68, the Commission may decide that export licences for products falling within CN code 0406 for export to the United States as part of the additional quota under the Agreement shall be issued pursuant to this Article.

2. Traders may apply, within a period to be determined, for a provisional export licence for the export of the products referred to in paragraph 1 during the following calendar year subject to the lodging of a security equal to 50 % of the rate fixed in Article 7. Licences for which application is made by a trader may not exceed 40 % of the quantity of the products referred to in (a) under the quota for the year concerned.

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 148, 30. 6. 1995, p. 17.
(3) OJ No L 144, 28. 6. 1995, p. 22.
(4) OJ No L 351, 14. 12. 1987, p. 1.
(5) OJ No L 134, 20. 6. 1995, p. 14.
(6) OJ No L 28, 5. 2. 1969, p. 1.
(7) OJ No L 155, 6. 7. 1995, p. 10.

Traders shall at the same time :

(a) describe the group of products covered by the American quota in accordance with Additional Notes 16 to 23 and 25 in Chapter 4 of the "Harmonized Tariff Schedule of the United States of America (1995)";

(b) describe the products in accordance with the "Harmonized Tafiff Schedule of the United States of America (1995)";

(c) indicate the quantity of products for which provisional licences are sought which they exported to the United States during the preceding three calendar years. To this end traders whose names appear on the relevant export declaration shall be regarded as exporters ;

(d) provide the name and address of the importer designated by the applicant in the United States ;

(e) indicate whether the importer is a subsidiary of the applicant.

Applications shall be admissible only if the applicant declares in writing that, for the period concerned, he has not submitted and undertakes not to submit other applications concerning the same group of products referred to in (a). Where a trader submits different applications in one or more Member States in respect of the same group of products, such applications shall be inadmissible.

Applications shall be accompanied, furthermore, by an attestation from the designated importer stating that he is eligible under the rules in force in the United States concerning the issue of import licences for the products referred to in paragraph 1 as part of the quota.

3. Where applications for provisional licences are submitted in respect of a quantity of products in excess of the quota referred to in paragraph 1 for the year in question, the Commission may :

— allocate provisional licences taking into account the quantity of the same products exported to the United States by the applicant in the past, and/or

— allocate provisional licences in preference to applicants whose designated importers are subsidiaries. This condition may be applied, however, only for the issue of provisional licences for 1997 and subsequent years, and/or

— apply a reduction coefficient to the quantities for which application is made.

Where applying a reduction coefficient would mean allocating provisional licences for quantities of less than 5 tonnes, the Commission may allocate licences by drawing lots.

4. The names of importers designated by traders to whom provisional licences are issued shall be forwarded to the competent United States authorities.

5. Securities shall be released in whole where applications are rejected or in part in respect of quantities in excess of those allocated.

6. Before the end of the year for which provisional licences are issued the trader shall apply for the full licence, which shall be issued to him forthwith. He may apply for the full licence in respect of part of the quantity only. Notwithstanding Article 4, full licences shall be valid for the year in question only.

7. The provisions of this Regulation, with the exception of Article 8, shall apply to full licences.'

4. Article 11 is replaced by the following :

'Article 11

Article 21 of Regulation (EEC) No 3665/87 shall apply only to licences issued pursuant to Article 6 (3).'

Article 2

Article 6 (2) of Regulation (EEC) No 210/69 is hereby amended as follows :

1. Point (c) is replaced by the following :

'(c) the quantities not exported after expiry of the licences relating thereto, distinguishing full licences issued pursuant to Article 9a of Commission Regulation (EC) No 1466/95 (*), and the rate of the corresponding refund ;

(*) OJ No L 144, 28. 6. 1995, p. 22.'

2. The following point (e) is added :

'(e) the quantities in respect of which full licences have been issued pursuant to Article 9a of Regulation (EC) No 1466/95.'

Article 3

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

Article 1 (4) shall apply from 1 July 1995.

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

Done at Brussels, 19 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission