COMMISSION REGULATION (EC) No 2457/97

of 10 December 1997

on the collection of samples in connection with physical checks of boneless beef cuts qualifying for export refunds

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal [1], as last amended by Regulation (EC) No 2321/97 [2], and in particular Article 13 (12) thereof,

Having regard to Council Regulation (EEC) No 386/90 of 12 February 1990 on the monitoring carried out at the time of export of agricultural products receiving refunds or other amounts [3], as amended by Regulation (EC) No 163/94 [4], and in particular Article 6 thereof,

Whereas, in accordance with Article 13 of Regulation (EEC) No 805/68, the difference between the prices for the products listed in Article 1 of that Regulation on the world market and within the Community can be covered by an export refund;

Whereas Commission Regulation (EEC) No 3665/87 [5], as last amended by Regulation (EC) No 2114/97 [6], lays down common detailed rules for the application of the system of export refunds on agricultural products;

Whereas Commission Regulation (EEC) No 3846/87 [7], as last amended by Regulation (EC) No 2333/97 [8], establishes an agricultural product nomenclature for export refunds;

Whereas Sector 5 of the Annex to Regulation (EEC) No 3846/87 on the nomenclature applicable to beef and veal provides, *inter alia*, that refunds are to be granted on certain boneless cuts on condition they are individually wrapped and have a minimum lean meat content;

Whereas practice in collecting samples has proved to vary from one Member State to another; whereas, where obligations are not met, the consequences of such failures should be brought more closely into line with their seriousness;

Whereas, for the purposes of checks, samples are collected in principle at the time the export declaration is verified or the products are placed under the customs warehousing procedure;

Whereas Commission Regulation (EC) No 2221/95 [9], as amended by Regulation (EC) No 1167/97 [10], lays down detailed rules for the application of Regulation (EEC) No 386/90; whereas this Regulation lays down further detailed rules; whereas the physical checks of the products concerned described herein should count as physical checks within the meaning of Article 3 of Regulation (EEC) No 386/90 regarding the nature and characteristics of the products;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation shall apply in the event of checks regarding:

(a) compliance with the obligation on the individual wrapping of boneless cuts covered by the following product codes:

— 0201 30 00 9100,

— 0201 30 00 9120,

— 0201 30 00 9150,

— 0202 30 90 9400;

(b) the minimum average lean meat content of boneless cuts covered by the following product codes:

— 0201 30 00 9100,

— 0201 30 00 9120,

— 0201 30 00 9150,

— 0201 30 00 9190,

— 0202 30 90 9400,

— 0202 30 90 9500.

2. The description of the products referred to in paragraph 1 shall be as set out in Sector 5 of the Annex to Regulation (EEC) No 3846/87.

[1] OJ L 148, 28. 6. 1968, p. 24.
[2] OJ L 322, 25. 11. 1997, p. 25.
[3] OJ L 42, 16. 2. 1990, p. 6.
[4] OJ L 24, 29. 1. 1994, p. 2.
[5] OJ L 351, 14. 12. 1987, p. 1.
[6] OJ L 295, 29. 10. 1997, p. 3.
[7] OJ L 366, 24. 12. 1987, p. 1.
[8] OJ L 323, 26. 11. 1997, p. 25.
[9] OJ L 224, 21. 9. 1995, p. 13.
[10] OJ L 169, 27. 6. 1997, p. 12.

Article 2

1. For the purposes of physical checks, samples shall consist of two full cartons collected from two different parts of the consignment. The first carton shall be intended for the authorities responsible for the checks while the second shall be kept in reserve under the supervision of the customs authorities.

2. The quantity of products covered by a declaration as referred to in Article 3 (1) or, as regards storage only, Article 25 (1) of Regulation (EEC) No 3665/87 that has been accepted shall be deemed to comprise a consignment.

3. Pursuant to Article 68 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (1) and without prejudice to Article 78 thereof, samples shall be collected and checks shall be carried out at the time of verification of declarations as referred to in paragraph 2 that have been accepted.

Article 3

1. For the purposes of checks of compliance with the obligation referred to in Article 1 (a), the customs authorities shall check that each cut in the first carton is individually wrapped and that each package does not contain more than one cut. If those conditions are not observed, the same checks shall be conducted on the reserve sample.

Where, taking the two cartons together, at most one cut turns out not to have been wrapped individually or one package to contain more than one cut, no irregularity shall be deemed to have occurred and the refund shall be granted, subject to compliance with all the other conditions applying.

Where the conditions referred to in the second subparagraph are not met, the refund payable in respect of the consignment shall be calculated on the basis of the corrected weight. The corrected weight shall be obtained by reducing the declared net weight by a percentage expressing the weight of cuts failing to comply in relation to the total net weight of the sample.

2. For the purposes of checks of compliance with the condition referred to in Article 1 (b), the whole contents of the first carton shall be minced and mixed to form a homogeneous sample with a view to ascertaining the average lean meat content. Where the average lean meat content of the sample is below the minimum laid down, the contents of the second carton shall be examined in the same way. Where the average for the two cartons is below the minimum average lean meat content laid down, no refund shall be granted.

Article 4

The provisions of this Regulation shall be applied at the time physical checks as referred to in Article 5 of Regulation (EC) No 2221/95 regarding the nature and characteristics of the products are carried out.

Article 5

This Regulation shall enter into force on 19 January 1998.

It shall apply to operations covered by a declaration as referred to in Article 3 (1) or, as regards storage only, Article 25 (1) of Regulation (EEC) No 3665/87 that has been accepted and is accompanied by an export licence issued from the date of entry into force of this Regulation.

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

Done at Brussels, 10 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

(1) OJ L 302, 19. 10. 1992, p. 1.