COMMISSION REGULATION (EC) No 313/97

of 20 February 1997

amending Regulation (EEC) No 3665/87 laying down common detailed rules for the system of export refunds on agricultural products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals [1], as last amended by Commission Regulation (EC) No 923/96 [2], and in particular Article 13 (11) thereof, together with the corresponding provisions of the other Regulations on the common organization of the markets in agricultural products,

Whereas steps should be taken to prevent Community funds from being allocated for transactions, the aim of which is not contemplated by the system of export refunds; whereas this risk exists for products attracting export refunds subsequently reimported into the Community without having undergone substantial processing or working in a third country and on which reduced or zero duty is paid on reimport rather than the normal rate, pursuant to a preferential agreement or a Council decision;

Whereas Articles 23 to 26 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code [3], as last amended by Regulation (EC) No 82/97 [4], define the non-preferential origin of goods and whereas those criteria for determining Community origin, in particular the criterion covering substantial processing or working laid down in Article 24, should be applied to reimported products to assess whether products previously exported may or may not be eligible for export refunds;

Whereas, on the one hand, the Member States should be able to refuse to grant or to recover refunds in flagrant cases where they note that the transaction is not in line with the aim of the system of export refunds and, on the other hand, an excessive burden should not be placed on the national authorities through an obligation systematically to verify all imports at reduced duties;

Whereas these new measures place new constraints on exporters; whereas the measures should be applied to the most sensitive products only; whereas such products must be selected on the basis of a risk analysis, i. e. the difference between the rates of refund and the preferential duties on the products concerned and on the basis of experience gained by the Member States and the Commission with regard to such operations; whereas a system of communication between the Member States and the Commission should be established relating to those products which constitute a risk of deflection of trade, even if they are not included on the list of sensitive products, to enable the Commission to complete the list;

Whereas Commission Regulation (EEC) No 3665/87 [5], as last amended by Regulation (EC) No 1384/95 [6], should accordingly be amended;

Whereas the Management Committees concerned have not delivered an opinion within the time limit laid down by their chairmen,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3665/87 is hereby amended as follows.

1. In Article 15, the existing text becomes paragraph 1 and the following paragraph 2 is added:

'2. Where it is found that the products exported are reimported into the Community:

— after undergoing working or processing in a third country without having attained the level of processing provided for in Article 24 of Regulation (EEC) No 2913/92, and

— attract a reduced or zero rate of import duty rather than the normal rate,

no refund shall be paid or, if already paid, it shall be reimbursed by the exporter at the request of the paying Member State.

This paragraph shall apply only to the products covered by Annex V exported without further processing. Member States shall notify the Commission without delay if they find that products other than those included in Annex V are likely to cause a deflection of trade.

This paragraph shall not apply in cases where the products are reimported at least two years after the day of export.

Article 11 shall not apply to the cases referred to in this paragraph.'

[1] OJ No L 181, 1. 7. 1992, p. 21.
[2] OJ No L 126, 24. 5. 1996, p. 37.
[3] OJ No L 302, 19. 10. 1992, p. 1.
[4] OJ No L 17, 21. 1. 1997, p. 1.
[5] OJ No L 351, 14. 12. 1987, p. 1.
[6] OJ No L 134, 20. 6. 1995, p. 14.

2. A new Annex V is added to the Regulation:

'ANNEX V

PRODUCTS TO WHICH ARTICLE 15 (2) APPLIES

I. Products listed in Article 1 of Council Regulation (EC) No 3072/95 (*) (rice)

II. Products listed in Article 1 of Regulation (EEC) No 1785/81 (sugar and isoglucose)

III. Products listed in Article 1 of Council Regulation (EEC) No 1766/92 (**) (cereals)

IV.

CN code	Beef and veal
0102	Live bovine animals
0201	Meat of bovine animals, fresh or chilled
0202	Meat of bovine animals, frozen
0206 10 95	Thick skirt and thin skirt, fresh or chilled
0206 29 91	Thick skirt and thin skirt, frozen

V.

CN code	Milk and milk products
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter
0403 90 11 to 0403 90 39	Buttermilk powder
0404 90 21 to 0404 90 89	Milk constituents
0405	Butter and other fats and oils derived from milk
0406 20	Grated or powdered cheese
0406 30	Processed cheese
0406 90 13 to 0406 90 27 0406 90 61 to 0406 90 81 0406 90 86 to 0406 90 88	Other cheese

VI.

CN code	
2204 29 62 2204 29 64 2204 29 65 2204 29 71 2204 29 72 2204 29 75 2204 29 83 2204 29 84 2204 29 94 2204 29 98	Table wine in bulk

VII.

CN code	
3505 10 10 to 3505 10 90	Dextrines and other modified starches
3809 10 10 to 3809 10 90	Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations with a basis of amylaceous substances

(*) OJ No L 329, 30. 12. 1995, p. 18.
(**) OJ No L 181, 1. 7. 1992, p. 21.'

Article 2

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

It shall apply to operations for which an export declaration is accepted from the date of its entry into force.

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

Done at Brussels, 20 February 1997.

For the Commission
Franz FISCHLER
Member of the Commission