COMMISSION REGULATION (EC) No 615/98

of 18 March 1998

laying down specific detailed rules of application for the export refund arrangements as regards the welfare of live bovine animals during transport

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 organisation of the market in beef and veal [1], as last amended by Regulation (EC) 2634/97 [2], and in particular Article 13(12) thereof,

Whereas Article 13(9) of Regulation (EEC) No 805/68 provides that the payment of export refunds for live animals is subject to compliance with the provisions established in Community legislation concerning animal welfare and in particular Council Directive 91/628/EEC [3], as last amended by Directive 95/29/EC [4], on the protection of animals during transport;

Whereas, in order to guarantee that the animal welfare standards are maintained, a monitoring system should be introduced comprising systematic checks on exit from the Community and checks determined on the basis of risk analysis carried out on unloading in the third country of final destination;

Whereas the assessment of the physical condition and state of health of animals requires specific expertise and experience; whereas checks have therefore to be carried out by a veterinarian;

Whereas, in order to facilitate proper checks on exit from the Community, exit points have to be designated;

Whereas, in cases where it is established on the basis of the physical condition and/or state of health of a certain number of the animals in a consignment that the provisions on the protection of animals during transport have not been complied with, further measures should be taken which will act as an adequate deterrent and which should be applied uniformly;

Whereas checks after exit from the Community are carried out on a limited number of consignments and, considering the particular characteristics of the measures taken, explicit provision shold be made for the recovery of refunds unduly paid in the light of the animal welfare requirement;

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

Scope

For the application of the second subparagraph of Article 13(9) of Regulation (EEC) No 805/68, the payment of export refunds for live bovine animals falling within CN code 0102 (hreinafter referred to as 'the animals') shall be subject to compliance, during the transport of the animals to the first place of unloading in the third country of final destination, with:

— Directive 91/628/EEC, and

— this Regulation.

Article 2

Checks within the Community

1. Exit from the customs of the Community may take place only through the following exit points:

— a border inspection post agreed by a Commission decision for veterinary checks on live ungulates from third countries, or

— an exit point designated by the Member State.

2. An official veterinarian at the exit point shall verify and certify in accordance with the provisions of Council Directive 96/93/EC [5] that:

— the animal are fit for the intended journey in compliance with Directive 91/628/EEC,

— the means of transport by which the live animals are to leave the customs territory of the Community complies with Directive 91/628/EEC, and

— provisions have been made for the care of the animals during the journey in accordance with Directive 91/628/EEC.

[1] OJ L 148, 28. 6. 1968, p. 24.
[2] OJ L 356, 31. 12. 1997, p. 13.
[3] OJ L 340, 11. 12. 1991, p. 17.
[4] OJ L 148, 30. 6. 1995, p. 52.
[5] OJ L 13, 16. 1. 1997, p. 28.

3. If the official veterinarian at the exit point is satisfied that the requirements of paragraph 2 are met, he shall certify this by the entry

— Controles de conformidad con el artículo 2 del Reglamento (CE) nº 615/98 satisfactorios

— Kontrollen efter artikel 2 i forordning (EF) nr. 615/98 er tilfredsstillende

— Kontrolle nach Artikel 2 der Verordnung (EG) Nr. 615/98 zufriedenstellend

— Έλεγχοι βάσει του άρθρου 2 του κανονισμού (ΕΚ) αριθ. 615/98 ικανοποιητικοί

— Checks pursuant to Article 2 of Regulation (EC) No 615/98 satisfactory

— Contrôles visés à l'article 2 du règlement (CE) nº 615/98 satisfaisants

— Controllato e risultato conforme alle disposizioni dell'articolo 2 del regolamento (CE) n. 615/98

— Bevindingen bij controle overeenkomstig artikel 2 van Verordening (EG) nr. 615/98 bevredigend

— Controlos satisfatórios nos termos do artigo 2º do Regulamento (CE) nº 615/98

— Asetuksen (EY) N:o 615/98 2 artiklan mukainen tarkastus tyydyttävä

— Kontrollen enligt artikel 2 i förordning (EG) nr 615/98 är tillfredsställande,

and by stamping and signing the document constituting evidence of exit from the customs territory of the Community, either in Section J of the control copy T 5 or in the most appropriate place on the national document. Where appropriate, the official veterinarian shall indicate:

— the number of animals which were no longer fit for the intended journey and therefore were removed from the consignment, and/or

— the endorsement referred to in Article 3(3).

4. Member States may require the exporter to give advance notice of the arrival of the consignment at the exit point to the official veterinarian at the exit point.

5. By way of derogation from paragraph 1, where the simplified Community transit procedure for carriage by rail referred to in Article 7(1) to (4) of Commission Regulation (EEC) No 3665/87 [1] applies, the official veterinarian shall carry out checks at the office where the animals are placed under such procedure. The certification and endorsements referred to in paragraph 3 shall be made on the document used for the purpose of payment of the refund or on the control copy T 5 in the case described in Article 7(4) of the said Regulation.

Article 3

Checks in third countries

1. After arrival of the animals in the third country of final destination, their first unloading shall be subject to checks in accordance with paragraph 3.

The checks on unloading shall be carried out by:

— an international control and supervisory agency approved for this purpose by a Member State or by the Commission, or

— an official agency of a Member State.

The person who carries out the checks shall be a veterinarian.

The Member States which approved an international control and supervisory agency shall verify on a regular basis, or when there are serious grounds for suspicion, whether the conditions for approval are complied with.

2. The person responsible for the checks shall draw up a report indicating:

— the number of live animals unloaded from the means of transport,

— the number of animals, among those referred to in the previous indent, which on the basis of their physical condition and/or state of health justify the conclusion that the Community provisions on the protection of animals during transport have not been complied with,

— whether or not the live animals have been put in quarantine.

3. The checks provided for in paragraph 1 shall be carried out:

— for each export consignement where there has been a change of means of transport between the place where the checks referred to in Article 2 are carried out and the place of unloading in the third country of final destination, and

— in the case of exports in respect of which the official veterinarian, during the checks referred to in Article 2(2), considers that checks should be carried out in the third country of final destination; in such cases, the official veterinarian shall enter one of the following endorsements on the document referred to in Article 2(3):

  — Control requerido en el momento de la descarga de los animales en el tercer país

  — Der kræves kontrol ved aflæsning af dyrene i tredjelandet

  — Kontrolle bei der Entladung der Tiere im Drittland erforderlich

  — Απαιτείται έλεγχος της εκφόρτωσης των ζώων στην τρίτη χώρα

  — Checks requested when the animals are unloaded in the third country

  — Contrôle demandé lors du déchargement des animaux dans le pays tiers

  — Richiesta di controllo all'atto dello scarico degli animali nel paese terzo

[1] OJ L 351, 14. 12. 1987, p. 1.

— Controle bij het lossen van de dieren in het derde land gevraagd

— Solicitado o controlo aquando do descarregamento dos animais no país terceiro

— Tarkastus suoritettava kolmannessa maassa eläimiä purettaessa

— Kontroll krävs vid lossning av djuren i tredje land.

This endorsement may be accompanied by any relevant comments.

The official veterinarian shall inform the exporter or his representative who carries out the exit formalities at the exit point.

Article 4

Without prejudice to the checks referred to in Article 3(3), the Member State where the export declaration is accepted shall ensure that checks are carried out after exit from the Community in accordance with Article 3(1) and (2) on changing of the means of transport or unloading in the third country of final destination without prior warning to the exporter or his representative. The consignments to be checked shall be selected on the basis of risk analysis.

Member States shall apply this Article on their own initiative or at the request of the Commission.

Member States shall inform the Commission of any obstacles experienced concerning the checks in third countries.

Article 5

Final provisions

1. The exporter shall inform the competent authority of the Member State where the export declaration is accepted about all necessary details of the journey, at the latest when the export declaration is lodged.

At the same time, or at the latest when he becomes aware therefore, the exporter shall inform the competent authority about any possible change of the means of transport.

2. Applications for the payment of export refunds drawn up in accordance with Article 47 of Regulation (EEC) No 3665/87 must be supplemented within the time limit laid down in that Article by proof that Article 1 has been complied with.

This proof shall be furnished by:

— the document referred to in Article 2(3) properly completed, and

— where appropriate, the report referred to in Article 3(2).

Furthermore, without prejudice to Article 5 of Regulation (EEC) No 3665/87, in the event that the refund does not vary according to destination, the exporter shall declare in writing the number of live animals which were released for free circulation in the third country of final destination. This declaration shall be considered an element of the refund requested within the meaning of Article 11(1) of Regulation (EEC) No 3665/87.

3. The export refund shall not be paid for animals which died during transport or for animals for which the competent authority considers, in the light of the documents referred to in paragraph 2, the reports on the checks referred to in Article 4 and/or all other elements at its disposal concerning compliance with Article 1, that the Directive on the protection of animals during transport, was not complied with.

The weight of an animal in respect of which the refund is not paid shall be determined on a flat-rate basis by dividing the total weight in kilograms given in the export declaration by the total number of animals given in that same declaration.

4. Where the number of animals for which no refund is paid pursuant to paragraph 3 amounts to:

— more than 3 % of the number indicated in the accepted export declaration, but at least two animals, or

— more than five animals,

the refund shall be further reduced by an amount equal to the amount of refund which is not paid pursuant to paragraph 3.

However, the animals which died during transport and for which the exporter proves to the satisfaction of the competent authority that their death was not the result of non-compliance with the provisions on the protection of the animals during transport shall not be taken into account.

5. The penalty referred to in Article 11(1) of Regulation (EEC) No 3665/87 shall not apply to the amount not paid and the amount of the reduction pursuant to paragraphs 3 and 4 above.

6. Where the checks referred to in Article 3(1) could not be carried out owing to circumstances beyond the control of the exporter, the competent authority, on a justified request from the exporter, may accept other documents which justify to its satisfaction the conclusion that the directive on the protection of animals during transport has been complied with.

7. Where it is established after payment of the refund that Community legislation on the protection of animals during transport has not been complied with, the relevant part of the refund, including where appropriate the reduction pursuant to paragraph 4, shall be considered to have been paid unduly and shall be recovered in accordance with the provisions of Article 11(3) to (6) of Regulation (EEC) No 3665/87.

Article 6

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 on or after the first day of the sixth month following the publication of this Regulation.

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

Done at Brussels, 18 March 1998.

For the Commission
Franz FISCHLER
Member of the Commission