COMMISSION REGULATION (EC) No 2294/2000

of 16 October 2000

derogating from Article 31(10) of Council Regulation (EC) No 1255/1999 on the common organisation of the market in milk and milk products as regards proof of arrival at destination in the case of differentiated refunds and laying down detailed rules for the application of the lowest export refund rate for certain milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1], as last amended by Regulation (EC) No 1670/2000 [2], and in particular Article 31(10) and (14) thereof,

Whereas:

(1) The third indent of Article 31(10) of Regulation (EC) No 1255/1999 stipulates that in the case of differentiated refunds the refund is to be paid on presentation of proof that the products have reached the destination indicated on the licence or another destination for which a refund was fixed. Exceptions to that rule are possible provided that conditions are laid down offering equivalent guarantees.

(2) In the event that export refunds are differentiated according to destination, Article 18(1) and (2) of Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products [3], as amended by Regulation (EC) No 1557/2000 [4], stipulates that part of the refund, calculated using the lowest rate for the refund, is to be paid on application by the exporter once proof is furnished that the product has left the customs territory of the Community.

(3) Under special arrangements with certain third countries, the refund rate applicable to the export of certain milk products to those countries may be lower, in some cases by a large amount, than the refund normally applied. It is also possible that a refund may not be fixed so the lowest rate of the refund is also the result of the lack of fixing of a refund.

(4) Article 20a(8) of Commission Regulation (EC) No 174/1999 of 26 January 1999 laying down special detailed rules for the application of Council Regulation (EEC) No 804/68 as regards export licences and export refunds in the case of milk and milk products [5], as last amended by Regulation (EC) No 1961/2000 [6], provides for a differentiation of the refund for certain milk powders falling within Combined Nomenclature code 0402 intended for export to the Dominican Republic.

(5) The special arrangements for exports to the Dominican Republic of certain products which may benefit from special treatment on import into that country guarantee that products to which a refund has been applied intended for other destinations or for that destination but outside the special arrangements, may not be imported into the Dominican Republic under the special arrangements laid down in the Memorandum of Understanding between the European Community and the Dominican Republic.

(6) Those special arrangements must therefore be taken into account when applying the above provisions of Regulations (EC) No 1255/1999 and (EC) No 800/1999 so that exporters are not burdened with unnecessary costs in their trade with third countries. To that end, when the lowest refund rate is determined, no account is to be taken of the rates fixed under the conditions and for the particular destination in question.

(7) The tariff quota for the destination Dominican Republic applies from 1 July 2000 so operators should be allowed to benefit from that derogation from the same date.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

By derogation from the third indent of Article 31(10) of Regulation (EC) No 1255/1999 and without prejudice to Article 20a(14) of Regulation (EC) No 174/1999, proof of arrival at destination shall not be required for the products referred to in Article 20a(3) and (11) of Regulation (EC) No 174/1999.

[1] OJ L 160, 26.6.1999, p. 48.
[2] OJ L 193, 29.7.2000, p. 10.
[3] OJ L 102, 17.4.1999, p. 11.
[4] OJ L 179, 18.7.2000, p. 6.
[5] OJ L 20, 27.1.1999, p. 8.
[6] OJ L 234, 16.9.2000, p. 10.

Article 2

The special refund referred to in Article 20a(8) of Regulation (EC) No 174/1999, the rate of which is lower than the lowest rate fixed for other destinations, shall not be taken into account in determining the lowest refund rate within the meaning of Article 18(2) of Regulation (EC) No 800/1999.

Article 3

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

It shall apply to export licences requested from 1 July 2000.

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

Done at Brussels, 16 October 2000.

For the Commission

Franz FISCHLER

Member of the Commission