COMMISSION REGULATION (EC) No 238/2000

of 28 January 2000

amending Regulation (EC) No 1222/94 laying down common detailed rules for the application of the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products [1], as last amended by Commission Regulation (EC) No 2491/98 [2], and in particular the first subparagraph of Article 8(3) thereof,

Whereas:

(1) It is necessary to clarify the provisions of Articles 6, 6a to 6i and 7 of, and Annex F to, Commission Regulation (EC) No 1222/94 of 30 May 1994 laying down common detailed rules for the application of the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty and the criteria for fixing the amount of such refunds [3], as last amended by Regulation (EC) No 1702/1999 [4].

(2) It is expedient to stipulate that the certificate provided for in Article 6 of Regulation (EC) No 1222/94 is not transferable.

(3) In order to ensure that certificates relating to goods exported during a transitional period of seven months from 1 March 2000 to 30 September 2000 are administered on a sound basis, only one advance fixing should be allowed per certificate during that period. Moreover, it should be stated that this advance fixing applies to all rates in force on the date of the application.

(4) The conditions for the release of the security pertaining to certificates subject to Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products [5], as last amended by Regulation (EC) No 1932/1999 [6], should be clarified.

(5) During the transitional period, the Commission must be able to take measures if it considers that there is a danger that the European Union will not meet its international obligations.

(6) Certain phrases should be rewarded, certain methods of calculation and regulatory references concerning certificates should be revised, and it should be stipulated that certain paragraphs do not apply to the transitional period. A clear distinction should also be made between the various statistical communications. Moreover, detailed rules on applying for and issuing certificates and extracts thereof should be laid down.

(7) The conditions under which refunds can be paid for exports not covered by a certificate should be specified.

(8) In order to enable the Commission to ensure that the international commitments of the European Union, as currently notified, cannot be exceeded, the procedure whereby the certificates are discharged should be stipulated.

(9) With a view to harmonising the use of certificates within the European Union, certain of their characteristics should be specified particularly as regards the application of Commission Regulation (EEC) No 3719/88 of 16 November 1988 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products [7], as last amended by Regulation (EC) No 1127/1999 [8].

(10) The Management Committee on horizontal questions concerning trade in processed agricultural products not listed in Annex I did not deliver an opinion within the time limit laid down by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1222/94 is hereby amended as follows:

1. In the second subparagraph of Article 6(1) and the second subparagraph of Article 6h(1), 'food aid operation' is replaced by 'international food aid operation within the meaning of Article 10(4) of the Agreement on Agriculture under the Uruguay Round'. In the first paragraph of Article 6d 'food aid operations' is replaced by 'international food aid operations within the meaning of Article 10(4) of the Agreement on Agriculture under the Uruguay Round'.

[1] OJ L 318, 20.12.1993, p. 18.
[2] OJ L 309, 19.11.1998, p. 28.
[3] OJ L 136, 30.5.1994, p. 5.
[4] OJ L 201, 31.7.1999, p. 30.
[5] OJ L 205, 3.8.1985, p. 5.
[6] OJ L 240, 10.9.1999, p. 11.
[7] OJ L 331, 2.12.1988, p. 1.
[8] OJ L 135, 29.5.1999, p. 48.

2. Article 6(3) is replaced by the following:

'3. The certificate shall not be transferable. It shall be used by the holder.'

3. Article 6a(2) is replaced by the following:

'2. The party concerned may request advance fixing of the refund rates in force on the day of lodging of the application. In that case, the advance fixing concerns all the applicable refund rates. The application for advance fixing may be lodged under the conditions in Annex F either at the time of application for the certificate or on or after the day of issue of the certificate but before the last day of validity thereof.

The advance fixing shall not apply to goods exported before the date of the application.'

4. Article 6a(4) is replaced by the following:

'4. The obligations referred to in paragraph 3 shall be primary requirements for the purposes of Article 20 of Regulation (EEC) No 2220/85.

The primary requirement shall be considered to have been fulfilled if the exporter has transmitted the specific application(s) relating to goods exported during the period of validity of the certificate in accordance with the conditions laid down in Section VI of Annex F. Where the specific application is not the export declaration, it must be lodged within three months of the date of acceptance of the export declaration, except in case of *force majeure*.

Proof that the primary requirement has been fulfilled shall be provided by means of the presentation to the competent authority of copy 1 of the duly recorded certificate, in accordance with the provisions of Section VI of Annex F. This proof must be presented by the end of the ninth month following the end of the period of validity of the certificate.'

5. Article 6b(3)(f) is replaced by the following:

'(f) the amounts for which certificates valid during the budget period concerned have been issued.'

6. The first subparagraph of Article 6b(6) is replaced by the following:

'6. If a reduction coefficient is set by the Commission, certificates may be issued for the amount requested multiplied by 1 minus the reduction coefficient set, as provided for in paragraph 5.'

7. The following subparagraph is added to Article 6b(8):

'Where the Commission considers that there is a danger that the European Union may not meet its international commitments, it may suspend the issue of certificates and, if necessary, apply a reduction coefficient to applications for certificates already lodged.'

8. Article 6b(11) is replaced by the following:

'11. The provisions of paragraphs 1 to 5, 9 and 10 shall apply from 15 July 2000.'

9. The following two subparagraphs are added to Article 6b(2):

'Where the rates of refund for goods exported after 1 March 2000 and before 30 September 2000 are fixed in advance, those rates shall apply until the end of the period of validity of the certificate.

Applications for advance fixing shall be made in accordance with section II of Annex F.'

10. In the last paragraph of Article 6d, 'the day determined by Article 10a(2) of Regulation (EC) No 174/1999' is replaced by 'the day determined by Article 13(2) of Regulation (EC) No 174/1999'.

11. In Article 6f(1), 'multiplied by a coefficient equal to 1 minus the reduction coefficient' is replaced by 'multiplied by the reduction coefficient'.

12. In Article 6g(2), 'and the amounts granted after 1 January for exports in previous budget periods' is replaced by 'and the amounts granted for exports in previous budget periods not previously notified'.

13. Article 6g(4) is replaced by the following:

'4. Before the 15th day of each month the Member States shall notify the Commission of:

(a) the amounts for which certificates were returned during the previous month in accordance with Article 6f(5);

(b) the amounts for which certificates were returned or reduced during the previous month in accordance with Article 6f(6);

(c) the amounts for which unused certificates expired;

(d) certificates issued during the previous month as referred to in Article 6d.'

14. The first subparagraph of Article 6h(1) is replaced by the following:

'1. From 1 March to 30 September 2000 and for each budget period from 1 October 2000, exports not covered by a certificate may be eligible for payment of a refund within the limit of a total reserve of EUR 15 million for each budget year.'

15. The first subparagraph of Article 6h(2) is replaced by the following:

'2. The provisions of this Article shall apply to exports by exporters who have not held a certificate since the beginning of the budget period in question and who do not hold a certificate on the date of export and whose total applications during the budget year in question are less than EUR 20 000.'

16. In the second subparagraph of Article 6(h)3, 'the Commission shall suspend the application of paragraphs 1 and 2 of this Article' is replaced by 'the Commission shall suspend the application of paragraphs 1 and 2 to exports not covered by a certificate.'

17. Article 6i(3) is deleted.

18. Article 7(7) is replaced by the following:

'7. Refunds in respect of goods exported between 1 October and 15 October of each year may not be paid before 16 October.'

19. The first subparagraph of point I(2) of Annex F is replaced by the following:

'2. Applicants must complete boxes 4, 8, 17 and 18 and, where appropriate, 7.'

20. The first indent of point I(3) of Annex F is deleted.

21. The second indent of point I(3) of Annex F is replaced by the following:

'— where advance fixing has been applied for, this shall be indicated in box 8,

— the applicant shall indicate in box 20 whether the certificate is to be used solely for export via that Member State.'

22. In point II(2) of Annex F, the last subparagraph is replaced by the following:'

in box 8, the box yes must be ticked.'

23. In point II(3) of Annex F, 'balance available under the original certificate' is replaced by 'amount not yet recorded on the original certificate on the date on which the extract is issued'.

24. In point III(1) of Annex F, the first sentence is replaced by the following:

'1. Copies 1 and 2 must be issued, based on the models annexed, and are light blue in colour.'

25. In point III(1)(a) of Annex F, the first sentence is replaced by the following:

'(a) Box 1 must indicate the name and address of the body issuing the certificate. Box 2 or Box 23 must indicate the number of the certificate allocated by the body issuing it.'

26. In point III(1)(d) of Annex F, 'original' is deleted.

27. In point IV of Annex F, the third paragraph is replaced by the following:

'Should the holder of such a certificate subsequently request advance fixing of the refund rates, the holder must return the original certificate and any extracts already issued. "Refund valid on… (date), advance fixing on… (date), valid until… (date)", completed as appropriate, shall be entered in box 20 of the certificate.

Extracts may not be the subject of advance fixing independently of the certificate from which they are taken.'

28. Points VI(2), (3) and (4) of Annex F are replaced by the following:

'2. Each exporter must complete a specific application for payment within the meaning of Article 49(1) of Commission Regulation (EC) No 800/1999 (*). It must be presented to the body responsible for payment, accompanied by the corresponding certificate or certificates except in the case of electronic registration of the certificate or certificates.

The competent authority may consider the specific application not to be the payment documents referred to in Article 49(2) of Regulation (EC) No 800/1999.

The competent authority may consider the specific application to be the export declaration within the meaning of Article 5(1) of Regulation (EC) No 800/1999. In this case, the date of receipt of the specific application by the body responsible for payment referred to in paragraph 3 shall be the date on which that body received the export declaration. In all other cases, the specific application must contain particulars of the export declaration.

3. The body responsible for payment shall determine the amount requested on the basis of the information contained in the specific application, taking as sole basis the quantity and nature of the basic product(s) exported and the applicable refund rate(s). These three elements must be indicated or referred to clearly in the export declaration.

The body responsible for payment shall record this amount on the certificate within a period of three months from the date of receipt of the specific application.

(*) OJ L 102, 17.4.1999, p. 11.'

29. In Section VI of Annex F, paragraphs 5 and 6 are renumbered paragraphs 4 and 5 respectively.

30. The models of applications for certificates and the copies for the holder and issuing body are replaced by the models annexed to this Regulation.

Article 2

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

It shall apply to goods exported on or after 1 March 2000.

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

Done at Brussels, 28 January 2000.

For the Commission

Erkki LIIKANEN

Member of the Commission

ANNEX

'EUROPEAN COMMUNITY — REFUND CERTIFICATE — "NON-ANNEX I GOODS"

D

APPLICATION

1. **Body issuing the certificate** (name and address)

2. No

3.

4. **Holder** (name, full address and Member State)

5.

6. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

7. Destination Mandatory ☐ YES ☐ NO

8. Advance fixing requested ☐ YES ☐ NO

11. Total amount of the security

D

12. **First day of validity**

13. **Last day of validity**

17. Amount covered (in figures) (in euro)

18. Amount (in letters)

20. Specific comments

22. Special conditions

☐ Certificate for export of goods from the issuing Member State

☐ Certificate for export of goods from all Member States

24. Place and date

Signature of applicant

EUROPEAN COMMUNITY — REFUND CERTIFICATE — "NON-ANNEX I GOODS"

1

COPY FOR HOLDER

1. **Body issuing the certificate** (name and address)

2. Stamp and perforation mark of the body issuing the certificate

No

3.

4. **Holder** (name, full address and Member State)

5.

6. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

7. Destination Mandatory

☐ YES ☐ NO

8.

10. Date of submission of the application for the certificate

11. Total amount of the security

1

12. **First day of validity**

13. **Last day of validity**

17. Amount covered (in figures) (in euros)

18. Amount (in letters)

19.

20. Specific comments

21. **Refund valid on** **Advance fixing** **Valid until**

22. Special conditions

23. Issued at

Date No

Signature and stamp of the body issuing the certificate

EUROPEAN COMMUNITY — REFUND CERTIFICATE — "NON-ANNEX I GOODS"

2

COPY FOR ISSUING BODY

1. **Body issuing the certificate** (name and address)

2. Stamp and perforation mark of the body issuing the certificate

No

3.

4. **Holder** (name, full address and Member State)

5.

6. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

7. Destination Mandatory ☐ Yes ☐ NO

8.

10. Date of submission of the application for the certificate

11. Total amount of the security

2

12. **First day of validity**

13. **Last day of validity**

17. Amount covered (in figures) (in euros)	18. Amount (in letters)	19.

20. Specific comments

21. **Refund valid on** **Advance fixing** **Valid until**

22. Special conditions

23. Issued at

Date No

Signature and stamp of the body issuing the certificate

RECORD SHEET

Date of export	Export document	Amount granted	Balance signature
		Amount	Amount
		Date	Signature
		Amount	Amount
		Date	Signature
		Amount	Amount
		Date	Signature
		Amount	Amount
		Date	Signature
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