COMMISSION REGULATION (EC) No 2886/2000

of 27 December 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 territoriy 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 no refund may be fixed so that no lowest rate of the refund can be fixed either.

(4) Council Regulation (EC) No 2851/2000 [5] establishes certain concessions in the form of Community tariff quotas for certain agricultural products and provides for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Poland. One of those concessions results in a differentiation of refunds from 1 January 2001 for certain products falling within CN code 0405 as a result of the abolition of refunds on those products exported to Poland.

(5) Article 20b 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 [6], as last amended by Regulation (EC) No 2884/2000 [7], provides for the obligation for operators to present to the competent authorities, on importation into Poland of certain products falling within CN code 0405, a certified copy of the export licence and the relevant export declaration. The export licence must include specific information guaranteeing that no export refund has been granted on the products in question. The Polish authorities have undertaken to ensure that Article 20b of Regulation (EC) No 174/1999 is complied with.

(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 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, proof of arrival at destination shall not be required fro the products falling within CN code 0405 referred to in Article 1(e) of Regulation (EC) No 1255/1999.

[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 332, 28.12.2000, p. 7.
[6] OJ L 20, 27.1.1999, p. 8.
[7] See page 76 of this Official Journal.

Article 2

The fact that no refund is fixed on the products falling within CN code 0405 referred to in Article 1(e) of Regulation (EC) No 1255/1999 and intended for Poland 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 1 January 2001.

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

Done at Brussels, 27 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission