COMMISSION REGULATION (EC) No 1012/2001

of 23 May 2001

on special measures derogating from Regulations (EC) No 1370/95, (EC) No 800/1999 and (EC) No 1291/2000 in the pigmeat sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat [1], as last amended by Regulation (EC) No 1365/2000 [2], and in particular Articles 8(2), 13(12) and 22 thereof,

Whereas;

(1) As a result of the cases of foot-and-mouth disease that have occurred in several Member States, protective measures have been adopted under Council Directive 90/425/EEC of 26 June 1999 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market [3], as last amended by Directive 92/118/EEC [4], and in particular Article 10 thereof, and under Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market [5], as last amended by Directive 92/118/EEC, and in particular Article 9 thereof.

(2) Council Regulation (EEC) No 565/80 [6], as amended by Regulation (EEC) No 2026/83 [7], lays down general rules on the advance payment of export refunds in respect of agricultural products.

(3) Commission Regulation (EC) No 800/1999 [8], as last amended by Regulation (EC) No 90/2001 [9], lays down detailed rules for applying the system of export refunds on agricultural products.

(4) Commission Regulation (EC) No 1291/2000 [10], lays down common detailed rules for applying the system of import and export licences and advance fixing certificates for agricultural products.

(5) Commission Regulation (EC) No 1370/95 [11], as last amended by Regulation (EC) No 2898/2000 [12], lays down rules of application for export licences in the pigmeat sector.

(6) The occurrence of cases of foot-and-mouth disease has led the authorities of certain third countries to take health measures with regard to exports of pigmeat which have seriously affected the financial interests of exporters. The situation thus created has seriously affected export opportunities under the conditions laid down in Regulations (EC) No 1370/95, (EC) No 800/1999 and (EC) No 1291/2000.

(7) Those adverse effects must be mitigated by adopting special measures, in particular to cancel export licences issued and extend certain time limits laid down in Regulations (EC) No 1370/95, (EC) No 800/1999 and (EC) No 1291/2000 relating to certain export operations which could not be completed because of the circumstances mentioned. In particular, operators who have already completed customs export formalities or placed their products under customs supervision should be allowed the same benefit derived from extending the term of licence validity by extending the transport time limit provided for in Regulation (EC) No 800/1999.

(8) Only those operators who can prove, on the basis of the documents referred to in Article 1(2) of Council Regulation (EEC) No 4045/89 [13], as last amended by Regulation (EC) No 3235/94 [14], that they were unable to carry out the export operations within the time limits laid down as a result of the circumstances mentioned above should be allowed to benefit from the derogations.

(9) In view of the rate at which events are developing this Regulation must enter into force immediately.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Pigmeat,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation shall apply to the products listed in Article 1(1) of Regulation (EEC) No 2759/75.

[1] OJ L 282, 1.11.1975, p. 1.
[2] OJ L 156, 29.6.2000, p. 5.
[3] OJ L 224, 18.8.1990, p. 29.
[4] OJ L 62, 15.3.1993, p. 49.
[5] OJ L 395, 30.12.1989, p. 13.
[6] OJ L 62, 7.3.1980, p. 5.
[7] OJ L 199, 22.7.1983, p. 12.
[8] OJ L 102, 17.4.1999, p. 11.
[9] OJ L 14, 18.1.2001, p. 22.
[10] OJ L 152, 24.6.2000, p. 1.
[11] OJ L 133, 17.6.1995, p. 9.
[12] OJ L 336, 30.12.2000, p. 32.
[13] OJ L 388, 30.12.1989, p. 18.
[14] OJ L 338, 28.12.1994, p. 16.

2. It shall apply only in cases where exporters prove to the satisfaction of the competent authorities that they were unable to export owing to measures taken in accordance with Community legislation or health measures taken by the authorities of the third countries of destination in response to the discovery of cases of foot-and-mouth disease in the Community.

The competent authorities shall base their assessment on the commercial documents referred to in Article 1(5) of Regulation (EEC) No 4045/89.

Article 2

1. At the holder's request, export licences issued under Regulation (EC) No 1370/95 that were applied for no later than 30 March 2001 and did not expire before 20 February 2001 shall be cancelled and the security released

2. On application by the exporter and for products for which, by 30 March 2001 at the latest;

— the customs export formalities had been completed or which had been placed under one of the customs control procedures referred to in Articles 4 and 5 of Regulation (EEC) No 565/80, the 60-day time limit for leaving the Community's customs territory referred to in Article 32(1)(b)(i) of Regulation (EC) No 1291/2000 and Articles 7(1) and 34(1) of Regulation (EC) No 800/1999 shall be raised to 150 days,

— the customs export formalities had been completed but they had not yet left the Community's customs territory or they had been placed under one of the customs control procedures referred to in Articles 4 and 5 of Regulation (EEC) No 565/80, the exporter shall repay any refund paid in advance and the various securities pertaining to the operations shall be released,

— the customs formalities had been completed and which had left the Community's customs territory, such products may be brought back and released for free circulation in the Community. The exporter shall repay any refund paid in advance and the various securities pertaining to the operations shall be released,

— the customs formalities had been completed and which had left the Community's customs territory, such products may be brought back to be placed under a suspensive procedure in a free zone, free warehouse or customs warehouse for a maximum of 120 days before reaching their final destination. This shall not affect payment of the refund for the actual final destination or the security lodged in respect of the licence.

Article 3

1. Article 18(3)(a), the 20 % reduction provided for in the second indent of Article 18(3)(b), and the 10 % and 15 % increases provided for in Article 25(1) and the second subparagraph of Article 35(1) of Regulation (EC) No 800/1999 respectively shall not apply to exports made under licences applied for no later than 30 March 2001.

2. Where the right to a refund is lost, the penalty laid down in Article 51(1)(a) of Regulation (EC) No 800/1999 shall not apply.

Article 4

For each situation indicated in Article 2, Member States shall notify the quantities of products concerned for the previous week on Thursdays, specifying the date of issue of the licences and the respective category.

Article 5

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

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

Done at Brussels, 23 May 2001.

For the Commission

Franz FISCHLER

Member of the Commission