COMMISSION REGULATION (EC) No 602/2001

of 28 March 2001

amending Regulation (EC) No 1501/95 with regard to the conditions for the payment of export refunds on products falling within CN codes 1001 90, 1101, 1102 and ex 2302

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2], and in particular Article 13 thereof,

Whereas:

(1) Article 3 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 last amended by Regulation (EC) No 90/2001 [4], lays down that, when a differentiated refund applies for a specific third country, entitlement to the refund is acquired on importation into that third country. Articles 14, 15 and 16 of that Regulation lay down the conditions for the payment of the refund when a differentiated refund applies and in particular the documents to be presented to prove the arrival of the product at destination.

(2) When a differentiated refund applies, Article 18(1) and (2) of Regulation (EC) No 800/1999 lays down that part of the refund, calculated using the lowest refund rate, is be paid on application by the exporter once proof is furnished that the product has left the customs territory of the Community.

(3) 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 the Republic of Poland. One of those concessions is the abolition of refunds for common wheat, flour and bran exported to Poland.

(4) Article 7a of Commission Regulation (EC) No 1162/95 of 23 May 1995 laying down special detailed rules for the application of the system of import and export licences for cereals and rice [6], as last amended by Regulation (EC) No 409/2001 [7], lays down the operators must present to the competent authorities on import into Poland of certain products falling within CN codes 1001 90, 1101, 1102 and ex 2302 certified copies of the export licence and of the relevant export declaration. The export licence includes specific information guaranteeing that no export refund has been granted on the products concerned. The Polish authorities have undertaken to check compliance with Article 7a of Regulation (EC) No 1162/95.

(5) Account must therefore be taken of those special arrangements, which entered into force on 1 March 2001, when applying the above provisions of Regulation (EC) No 800/1999 so as not to impose unnecesary costs on exporters trading with third countries. To that end, no acocunt should be taken of the fact that no refund has been fixed for the destination concerned in determining the lowest rate of refund.

(6) Commission Regulation (EC) No 1501/95 [8], as last amended by Regulation (EC) No 2513/98 [9], lays down certain detailed rules for the application of Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals and should therefore be amended to insert the derogations required for Regulation (EC) No 800/1999.

(7) This Regulation should enter into force immediately.

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

HAS ADOPTED THIS REGULATION:

Article 1

The following Article 13a is added to Regulation (EC) No 1501/95:

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 102, 17.4.1999, p. 11.
[4] OJ L 14, 18.1.2001, p. 22.
[5] OJ L 332, 28.12.2000, p. 7.
[6] OJ L 117, 24.5.1995, p. 2.
[7] OJ L 60, 1.3.2001, p. 27.
[8] OJ L 147, 30.6.1995, p. 7.
[9] OJ L 313, 21.11.1998, p. 16.

'Article 13a

1. Where the differentiation of the refund is the result solely of a refund not having been fixed for Poland, and notwithstanding Article 16 of Regulation (EC) No 800/1999, proof that customs formalities for importation have been completed shall not be required for payment of the refund for products falling within CN codes 1001 90, 1101, 1102 and ex 2302.

2. The fact that a refund has not been fixed for the export of products falling within CN codes 1001 90, 1101, 1102 and ex 2302 to Poland shall not be taken into account in determining the lowest rate of refund within the meaning of Article 18(2) of Regulation (EC) No 800/1999.'

Article 2

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

It shall apply to export declarations accepted from 1 March 2001.

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

Done at Brussels, 28 March 2001.

For the Commission

Franz FISCHLER

Member of the Commission