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COMMISSION REGULATION (EC) No 795/2001

of 25 April 2001

on special measures derogating from Regulations (EC) No 174/1999, (EC) No 800/1999 and (EC) No 1291/2000 in the milk and milk products sector

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on special measures derogating from Regulations (EC) No 174/1999, (EC) No 800/1999 and (EC) No 1291/2000 in the milk and milk products sector

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 26(3), Article 31(14) and Article 40 thereof,

Whereas:

(1) Cases of foot-and-mouth disease were discovered on 20 February, 13, 21 and 22 March 2001 in the United Kingdom, France, the Netherlands and Ireland. These triggered the adoption of protective measures in the United Kingdom by Commission Decision 2001/145/EC [3], replaced by Decision 2001/172/EC [4], in its turn amended by Decision 2001/190/EC [5]; in France by Commission Decision 2001/208/EC [6]; in the Netherlands by Commission Decision 2001/223/EC [7] and in Ireland by Commission Decision 2001/234/EC [8].

(2) Commission Regulation (EC) No 800/1999 [9], as last amended by Regulation (EC) No 90/2001 [10], lays down common detailed rules for the application of the system of export refunds on agricultural products.

(3) Commission Regulation (EC) No 1291/2000 [11] lays down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products.

(4) Commission Regulation (EC) No 174/1999 [12], as last amended by Regulation (EC) No 2884/2000 [13], lays down special detailed rules for the application of Council Regulation (EEC) No 804/68 [14], as last amended by Regulation (EC) No 1587/96 [15], as regards export licences and export refunds in the case of milk and milk products.

(5) The lengthy procedures for the issue of animal health certificates practised by certain Member States relating to the protective measures adopted by the relevant Decisions and measures taken by third countries resulting in import restrictions have adversely affected the financial interests of the exporters. The situation thus created has affected export opportunities under the conditions laid down in Regulations (EC) No 174/1999, (EC) No 800/1999 and (EC) No 1291/2000.

(6) Those adverse effects must be limited by the adoption of special measures, and certain time limits laid down in Regulations (EC) No 174/1999, (EC) No 800/1999 and (EC) No 1291/2000 relating

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[1] OJ L 160, 26.6.1999, p. 48.
[2] OJ L 193, 29.7.2000, p. 10.
[3] OJ L 53, 23.2.2001, p. 25.
[4] OJ L 62, 2.3.2001, p. 22.
[5] OJ L 67, 9.3.2001, p. 88.
[6] OJ L 73, 15.3.2001, p. 38.
[7] OJ L 82, 22.3.2001, p. 29.
[8] OJ L 84, 23.3.2001, p. 62.
[9] OJ L 102, 17.4.1999, p. 11.
[10] OJ L 14, 18.1.2001, p. 22.
[11] OJ L 152, 24.6.2000, p. 1.
[12] OJ L 20, 27.1.1999, p. 8.
[13] OJ L 333, 29.12.2000, p. 76.
[14] OJ L 148, 28.6.1968, p. 13.
[15] OJ L 206, 16.8.1996, p. 21.

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to certain export operations which could not be completed because of the circumstances mentioned, should be extended. In particular, operators who have already competed 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 means of extending the transport time limit as provided for in Regulation (EC) No 800/1999.

(7) 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 [1], as last amended by Regulation (EC) No 3235/94 [2], 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.

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

(9) 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

1. The following provisions shall apply to the products listed in Section 9 of Annex I to Regulation (EEC) No 3846/87, provided that the exporter concerned can supply proof to the satisfaction of the competent authorities that he was not able to complete the export operations as a result of measures adopted under Community legislation or of animal health measures adopted by authorities in third countries of destination owing 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(2) of Regulation (EEC) No 4045/89.

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2. Notwithstanding Article 6 of Regulation (EC) No 174/1999, the term of validity of export licences issued pursuant to that Regulation and applied for by no later than 22 March 2001 shall be extended on application by the holder by:

— five months for licences expiring on 31 March 2001,

— four months for licences expiring on 30 April 2001,

— three months for licences expiring on 31 May 2001,

— two months for licences expiring on 30 June 2001,

— one month for licences expiring on 31 July 2001.

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3. By derogation from Article 32(1)(b)(i) of Regulation (EC) No 1291/2000 and from Article 7(1) and Article 34(1) of Regulation (EC) No 800/1999, at the request of the exporter and in respect of products for which the customs export formalities have been completed by 29 March 2001 at the latest, the time limit of 60 days shall be extended to 150 days.

4. The increases of 10 % and 15 % referred to in Article 25(1) and in the second subparagraph of Article 35(1) respectively of Regulation (EC) No 800/1999 shall not apply to exports effected under licences applied for by 22 March 2001 at the latest.

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.

[1] OJ L 388, 30.12.1989, p. 18.
[2] OJ L 338, 28.12.1994, p. 16.

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Article 2

The Member States shall notify the Commission by fax ((32-2) 295 33 10):

— by no later than 10 July 2001 as regards the period 27 April to 30 June 2001, and

— by no later than the 10th day of each month as regards the preceding month, as from the notification of data for July,

of particulars relating to the products covered by each of the measures laid down in this Regulation, the number and date of issue of the licence, the code of the export refund nomenclature and the code of the nomenclature of countries and territories for the external trade statistics of the Community shown in box 7 of the licence, the quantity of the products, the original term of validity and the extended term of validity.

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Article 3

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.