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COMMISSION REGULATION (EC) No 825/2001

of 27 April 2001

laying down special measures derogating from Regulation (EC) No 800/1999 and Regulation (EC) No 1520/2000 as regards products exported in the form of goods not covered by Annex I to the Treaty

(OJ L 120, 28.4.2001, p. 5)

Amended by:

	Official Journal		
	No	page	date
►**M1** Commission Regulation (EC) No 1527/2001 of 26 July 2001	L 202	8	27.7.2001

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laying down special measures derogating from Regulation (EC) No 800/1999 and Regulation (EC) No 1520/2000 as regards products exported in the form of goods not covered by Annex I to the Treaty

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 Council Regulation (EC) No 2580/2000 [2], and in particular the first subparagraph of Article 8(3) thereof,

Whereas:

(1) Following the confirmation of cases of foot-and-mouth disease in the United Kingdom, France, the Netherlands and Ireland on 20 February, 13 March and 21 March 2001 respectively, certain protective measures were introduced pursuant to Commission Decision 2001/145/EC [3], which was replaced by Decision 2001/172/EC [4], as amended in turn by Decision 2001/190/EC [5] (United Kingdom); Commission Decision 2001/208/EC [6] (France); Commission Decision 2001/223/EC [7] (the Netherlands); and Commission Decision 2001/234/EC [8] (Ireland).

(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 1520/2000 [11], as amended by Regulation (EC) No 2390/2000 [12], lays 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 and, in particular, Articles 1, 5 to 15 and Annex F on refund certificates.

(4) The economic interests of exporters have been prejudiced by the procedures for issuing health certificates adopted by certain Member States in implementation of the protective measures provided for by the relevant Decisions, and by certain measures taken by some third countries which have resulted in import restrictions. The situation thus created has affected export opportunities under the conditions laid down by Regulations (EC) No 800/1999 and (EC) No 1520/2000.

(5) It is therefore necessary to limit these harmful effects by adopting special measures and extending certain time limits laid down in Regulations (EC) No 800/1999 and (EC) No 1520/2000 in respect of export procedures which could not be completed because of the aforementioned circumstances. In particular, the time limit provided for by Regulation (EC) No 800/1999 should be extended to enable operators who have already completed the relevant customs export formalities or placed the goods in question under

(1) OJ L 318, 20.12.1993, p. 18.
(2) OJ L 298, 25.11.2000, p. 5.
(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 177, 15.7.2000, p. 1.
(12) OJ L 276, 27.10.2000, p. 3.

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customs control to benefit from the extension of the validity of certificates.

(6) The benefit of these derogations should be reserved for operators who can prove, in particular 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 prevented from carrying out export operations within the specified period by the aforementioned circumstances.

(7) In view of current developments, the present Regulation should come into force immediately.

(8) The measures provided for by this Regulation are in conformity with the opinion of the Management Committee for Horizontal Questions concerning trade in processed agricultural products not covered by Annex I to the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

1. The provisions of this Regulation shall apply to the agricultural products exported in the form of goods not covered by Annex I to the Treaty referred to in Article 1 of Regulation (EC) No 1520/2000, in so far as the exporter concerned can satisfy the competent authorities that he was unable to carry out export operations as a result of measures adopted under Community legislation or of health measures taken by the authorities of the third countries of destination following the confirmation of cases of foot-and-mouth disease in the Community.

In making their appraisal, the competent authorities shall rely, in particular, on the commercial documents referred to in Article 1(2) of Regulation (EEC) No 4045/89.

2. On application by the holder, and by way of derogation from the first subparagraph of Article 9(2) of Regulation (EC) No 1520/2000, the validity of refund certificates, issued pursuant to that Regulation, which were applied for by 22 March 2001 at the latest and which did not expire before 30 March 2001, shall be extended until 30 September 2001 for the amount of the exports referred to in paragraph 1.

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By way of derogation from the second subparagraph of Article 9(2) of Regulation (EC) No 1520/2000, where the system of advance fixing of the refund rate is applied, the rate in force on the day on which the application for advance fixing is lodged shall apply to goods exported during the extended period of validity of the refund certificate.

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3. On application by the exporter, and by way of derogation from Articles 7(1) and 34(1) of Regulation (EC) No 800/1999, the 60-day time limit for leaving the customs territory of the Community shall be extended to 150 days in the case of products for which customs export formalities were completed by 29 March 2001 at the latest.

4. The 10 % and 15 % increases referred to in Articles 25(1) and 35(1) respectively of Regulation (EC) No 800/1999 shall not apply to exports carried out by 22 March 2001 at the latest under the derogation provided for in Article 14 of Regulation (EC) No 1520/2000 or to those carried out under certificates applied for by 22 March 2001 at the latest.

If entitlement to refund is lost, the penalty provided for by Article 51(1)(a) of Regulation (EC) No 800/1999 shall not apply.

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[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 quantities covered by each of the measures provided for in this Regulation, specifying the certificate number and date of issue, the nomenclature code of the product(s) concerned and the initial and extended periods of validity.

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.