COMMISSION REGULATION (EC) No 325/2003

of 20 February 2003

amending Regulation (EC) No 1291/2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products

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 9(2) and Article 13(11) thereof, and the corresponding provisions of the other Regulations on the common organisation of the markets in agricultural products,

Whereas:

(1) Article 50(1) 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 1253/2002 [4], provides that if the 60-day time limit by which the products must have left the Community's customs territory, referred to in Article 7(1) of Regulation (EC) No 800/1999, or the 30-day time limit by which the goods must have been placed in a victualling warehouse, referred to in Article 40(1) of that Regulation, is not complied with, then the refund is to be reduced by 15 %, followed by a further reduction for each day by which the time limit concerned is exceeded.

(2) In addition, where these time limits are exceeded, the second subparagraph of Article 32(1) of Commission Regulation (EC) No 1291/2000 [5], as last amended by Regulation (EC) No 2299/2001 [6], provides for a penalty consisting in the forfeiture of part of the security on the export licence, followed by forfeiture of a further amount for each day by which the time limit concerned is exceeded.

(3) The cumulation of penalties thus imposed on both the refund and the licence security when one and the same time limit is exceeded is a heavy burden on exporters and does not seem indispensable. The rules should therefore be simplified, and the penalty provided for in the second subparagraph of Article 32(1) of Regulation (EC) No 1291/2000 involving the export-licence security should not be applied in such cases.

(4) Article 35(3) of Regulation (EC) No 1291/2000 provides that if the licence is returned to the issuing body within the initial two thirds of its term of validity, the corresponding amount of security to be forfeited is reduced by 40 %, and if the licence is returned during the last third of its term of validity or during the month following the expiry date, the corresponding amount of the security to be forfeited is reduced by 25 %. The mechanism introduced by Article 35(3) of Regulation (EC) No 1291/2000 is intended to encourage exporters to return unused export licences with advance fixing of the refund to the issuing body rapidly so that export opportunities for agricultural products qualifying for refunds may be used to the full.

(5) In cases where there is a substantial increase in the refund, application of the mechanism provided for in Article 35(3) of Regulation (EC) No 1291/2000 could lead to speculation by encouraging exporters not to use their licences and to return them to the issuing body if the difference between the new refund which can be received for the product concerned and the refund fixed in advance for the same product is greater than the amount of security to be forfeited. Appropriate steps should therefore be taken to prevent improper application of that provision.

(6) Annex III to Regulation (EC) No 1291/2000, which sets the maximum quantities of agricultural products for which import or export licences or advance fixing certificates need not be presented under the fourth indent of Article 5(1) of that Regulation, should be updated.

(7) Regulation (EC) No 1291/2000 should be amended accordingly.

(8) The measures provided for in this Regulation are in accordance with the opinion of all the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1291/2000 is hereby amended as follows:

1. the following subparagraph is added to Article 32(1):

'The security shall not be forfeited under the second subparagraph in the case of quantities for which the refund is reduced in accordance with Article 50(1) of Regulation (EC) No 800/1999 for failure to meet the deadlines referred to in Article 7(1) and Article 40(1) of that Regulation.';

[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 183, 12.7.2002, p. 12.
[5] OJ L 152, 24.6.2000, p. 1.
[6] OJ L 308, 27.11.2001, p. 19.

2. the following subparagraphs are added to Article 35(3):

   'The first subparagraph shall apply unless it is temporarily suspended. Where the refund for one or more products is increased, the Commission, acting in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC or the corresponding Articles of the other Regulations on the common organisation of the markets, they may suspend application of the first subparagraph for licences applied for before the refund is increased and not returned to the issuing body until the day before the increase.

   Licences lodged under Article 25 shall be deemed to have been returned to the issuing body on the date on which the latter receives an application from the licence holder for the security to be released.';

3. Annex III shall be replaced by the text in the Annex to this Regulation.

Article 2

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

It shall apply to licences applied for from its entry into force.

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

Done at Brussels, 20 February 2003.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

'ANNEX III

Maximum quantities (1) of products for which import or export licences or advance fixing certificates need not be presented pursuant to the fourth indent of Article 5(1) (provided import or export does not take place under preferential arrangements subject to a licence (2))

	Product (Combined Nomenclature code)		Net quantity
A.	CEREALS AND RICE (Regulation (EC) No 1162/95) *Import licence:*		
	0709 90 60 0712 90 19 0714 1001 10 1001 90 91 1001 90 99 1002 00 00 1003 00 1004 00 1005 10 90 1005 90 00 1007 00 90		5 000 kg
	1006 10 1006 20 1006 30 1006 40 00 1008 1101 00 11 1101 00 15 1101 00 90 1102 1103 1104 1106 20 1107 1108 1109 00 00 1702 30 51 1702 30 59 1702 30 91 1702 30 99 1702 40 90 1702 90 50 1702 90 75 1702 90 79 2106 90 55 2302 2303 10 2303 30 00	with the exception of subheading 1006 10 10 with the exception of subheading 1108 20 00 with the exception of subheading 2302 50	1 000 kg

	Product (Combined Nomenclature code)		Net quantity
	2306 70 00 2308 00 40 2308 10 00 ex 2309	Containing starch, glucose, maltodextrine, glucose syrup or maltodextrine syrup falling within subheadings 1702 30 51 to 1702 30 99, 1702 40 90, 1702 90 50 and 2106 90 55 or milk products [3] except preparations and feedingstuffs containing 50 % or more by weight of milk products	
	Export licence with or without advance fixing of the refund:		
	0709 90 60 0712 90 19 0714 1001 10 1001 90 91 1001 90 99 1002 00 00 1003 00 1004 00 1005 10 90 1005 90 00 1007 00 90		5 000 kg
	1006 10 1006 20 1006 30 1006 40 00 1008 1101 00 11 1101 00 15 1101 00 90 1102 1103 1104 1106 20 1107 1108 1109 00 00 1702 30 51 1702 30 59 1702 30 91 1702 30 99 1702 40 90 1702 90 50 1702 90 75 1702 90 79 2106 90 55 2302 2303 10 2303 30 00	with the exception of subheading 1006 10 10 with the exception of subheading 1108 20 00 with the exception of subheading 2302 50	500 kg

	Product (Combined Nomenclature code)		Net quantity
	2306 70 00 2308 00 40 2308 10 00 ex 2309	Containing starch, glucose, maltodextrine, glucose syrup or maltodextrine syrup falling within subheadings 1702 30 51 to 1702 30 99, 1702 40 90, 1702 90 50 and 2106 90 55 or milk products (4) except preparations and feedingstuffs containing 50 % or more by weight of milk products	
B	OILS AND FATS: *Import licence* (Regulation (EC) No 1476/95)		
	0709 90 39 0711 20 90 1509 1510 00 1522 00 31 1522 00 39 2306 90 19		100 kg
	Export licence with or without advance fixing of the refund (Regulation (EC) No 2543/95)		
	1509 1510 00		100 kg
C.	SUGAR (Regulation (EC) No 1464/95) *Import licence:*		
	1212 91 20 1212 91 80 1212 99 20 1701 11 10 1701 11 90 1701 12 10 1701 12 90 1701 91 00 1701 99 10 1701 99 90 1702 20 10 1702 20 90 1702 30 10 1702 40 10 1702 60 10 1702 60 80 1702 60 95 1702 90 30 1702 90 60 1702 90 71 1702 90 80		2 000 kg
	1702 90 99 1703 10 00 1703 90 00 2106 90 30 2106 90 59		

	Product (Combined Nomenclature code)		Net quantity
	Export licence with or without advance fixing of the refund:		
	1212 91 20 1212 91 80 1212 99 20 1701 11 10 1701 11 90 1701 12 10 1701 12 90 1701 91 00 1701 99 10 1701 99 90 1702 20 10 1702 20 90 1702 30 10 1702 40 10 1702 60 10 1702 60 80 1702 60 95 1702 90 30 1702 90 60 1702 90 71 1702 90 80		2 000 kg
	1702 90 99 1703 10 00 1703 90 00 2106 90 30 2106 90 59		
D.	MILK AND MILK PRODUCTS *Import licence* (Regulation (EC) No 2535/2001)		
	0401 0402 0403 10 11 to 0403 10 39 0403 90 11 to 0403 90 69 0404 0405 10 0405 20 90 0405 90 0406 1702 11 00 1702 19 00 2106 90 51 2309 10 15 2309 10 19 2309 10 39 2309 10 59	Preparations of a kind used in animal feed; preparations and foodstuffs containing products to which Regulation (EC) No 1255/1999 (5) applies, directly or under Regulation (EEC) No 2730/75 (6), with the exception of preparations and foodstuffs to which Regulation (EEC) No 1766/92 (7) applies	150 kg

	Product (Combined Nomenclature code)		Net quantity
	2309 10 70 2309 90 35 2309 90 39 2309 90 49 2309 90 59 2309 90 70		
	Export licence with advance fixing of the refund (Regulation (EC) No 174/1999)		
	0401 0402 0403 10 11 to 0403 10 39 0403 90 11 to 0403 90 69 0404 0405 10 0405 20 90 0405 90 0406 2309 10 15 2309 10 19 2309 10 70 2309 90 35 2309 90 39 2309 90 70	Preparations of a kind used in animal feed; preparations and foodstuffs containing products to which Regulation (EC) No 1255/1999 ([5]) applies, directly or under Regulation (EEC) No 2730/75 ([6]), with the exception of preparations and foodstuffs to which Regulation (EEC) No 1766/92 ([7]) applies	150 kg
E.	BEEF AND VEAL (Regulation (EC) No 1445/95) *Import licence:*		
	0102 90 05 to 0102 90 79		One animal
	0201 0202 0206 10 95 0206 29 91 0210 20 0210 99 51 0210 99 90 1602 50 10 1602 50 31 1602 50 39 1602 50 80 1602 90 61 1602 90 69		200 kg
	Export licence with advance fixing of the refund:		
	0102 10 0102 90 05 to 0102 90 79		One animal
	0201 0202 0206 10 95 0206 29 91		200 kg

	Product (Combined Nomenclature code)		Net quantity
	0210 20 0210 99 51 0210 99 90 1602 50 10 1602 50 31 1602 50 39 1602 50 80 1602 90 61 1602 90 69		
	Export licence without refund (Article 7 of Regulation (EC) No 1445/95)		
	0102 10 0102 90 05 to 0102 90 79		Nine animals
	0201 0202 0206 10 95 0206 29 91 0210 20 0210 99 51 0210 99 90 1602 50 10 1602 50 31 1602 50 39 1602 50 80 1602 90 61 1602 90 69		2 000 kg
F.	SHEEPMEAT AND GOATMEAT *Import licence* (Regulation (EC) No 1439/95)		
	0204 0210 99 21 0210 99 29 1602 90 72 1602 90 74 1602 90 76 1602 90 78		100 kg
	0104 10 30 0104 10 80 0104 20 90		Five animals
G.	PIGMEAT *Export licence with advance fixing of the refund* (Regulation (EC) No 1370/95)		
	ex 0203 ex 1601 ex 1602		250 kg
	0210		150 kg

	Product (Combined Nomenclature code)		Net quantity
H.	POULTRYMEAT *Export licence with advance fixing of the refund and ex-post export licence* (Regulation (EC) No 1372/95)		
	0105 11 11 9000 0105 11 19 9000 0105 11 91 9000 0105 11 99 9000		4 000 chicks
	0105 12 00 9000 0105 19 20 9000		2 000 chicks
	ex 0207		250 kg
I.	EGGS *Export licence with advance fixing of the refund and ex-post export licence* (Regulation (EC) No 1371/95)		
	0407 00 11 9000		2 000 eggs
	0407 00 19 9000		4 000 eggs
	0407 00 30 9000		400 kg
	0408 11 80 9100 0408 91 80 9100		100 kg
	0408 19 81 9100 0408 19 89 9100 0408 99 80 9100		250 kg
J.	SEEDS *Import licence* (Regulation (EEC) No 1119/79)		
	1005 10 11 to 1005 10 19 1007 00 10		100 kg
K.	WINE (Regulation (EC) No 883/2001) *Import licence*		
	2009 61 2009 69		3 000 kg
	2204 10 2204 21 2204 29 2204 30		30 hl
	Export licence with advance fixing of the refund:		
	2009 61 2009 69		10 hl
	2204 21 2204 29 2204 30		10 hl

	Product (Combined Nomenclature code)		Net quantity
L.	FRUIT AND VEGETABLES *Export licence with advance fixing of the refund* (Regulation (EC) No 1961/2001)		
	0702 00 ex 0802 08 05 0806 10 10 0808 0809		300 kg
M.	PRODUCTS PROCESSED FROM FRUIT AND VEGETABLES *Export licence with advance fixing of the refund* (Regulation (EC) No 1429/95)		
	0806 20 ex 0812 20 02 ex 2006 00 ex 2008 ex 2009		300 kg

(1) Maximum quantities of products which may be imported or exported without licences, corresponding to an eight-figure combined-nomenclature (CN) subheading and, in the case of exports with refunds, a 12-figure subheading under the export refund nomenclature for agricultural products.

(2) For example, the quantities indicated in this document do not cover imports under quantitative quotas or preferential arrangements, for which licences are always required for all quantities. The quantities indicated here refer to imports under normal arrangements, i.e. with payment of full duties and with no limits on quantities.

(3) For the purposes of this subheading, "milk products" means products falling within headings 0401 to 0406 and subheadings 1702 10 and 2106 90 51.

(4) For the purposes of this subheading, "milk products" means products falling within headings 0401 to 0406 and subheadings 1702 10 and 2106 90 51.

(5) OJ L 160, 26.6.1999, p. 48.

(6) OJ L 281, 1.11.1975, p. 20.

(7) OJ L 181, 1.7.1992, p. 21.'