COMMISSION REGULATION (EC) No 444/2003

of 11 March 2003

amending Council Regulation (EEC) No 565/80 and Commission Regulations (EC) No 800/1999 and (EC) No 2090/2002 as regards the advance payment of export refunds in respect of 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 Articles 13 and 21 thereof, and the corresponding provisions of the other regulations on the common organisation of markets in agricultural products,

Whereas:

(1) It has been noted that the exporters' stock accounts used to monitor basic products placed under the prefinancing arrangements and intended for export in the form of processed products and which are based on standard rates of yields, do not necessarily reflect the real situation of existing stocks and do not allow adequate checks on the requirements to which these products are subject under Community rules. Article 4(3) of Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural products ([3]), as amended by Regulation (EEC) No 2026/83 ([4]), should therefore be amended so that the standard rates of yields are no longer applied to prefinancing.

(2) Experience shows that the rules do not adequately specify how the physical checks on products placed under the prefinancing arrangements should be applied. Differences have also been found between Member States in the way the physical checks are conducted. In order to achieve uniform application of the rules in this area, a minimum compulsory rate of physical checks on products placed under the prefinancing arrangements should be introduced, to be carried out when the payment declaration is accepted; it should be specified also that these checks must be carried out in accordance with the system laid down in Council Regulation (EEC) No 386/90 ([5]), as amended by Regulation (EC) No 163/94 ([6]), and Commission Regulation (EC) No 2090/2002 ([7]).

(3) It has been found that exporters use the prefinancing arrangements above all to extend indirectly the period of validity of export licences. 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 ([8]), as last amended by Regulation (EC) No 1253/2002 ([9]), should therefore be further amended as regards the period during which basic products may remain under customs control with a view to processing and the period during which products may remain under a customs-warehousing or free-zone procedure.

(4) Furthermore, to ensure sound market management, the quantities of products placed under the prefinancing arrangements should be known fairly rapidly.

(5) Following the amendment of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ([10]), as last amended by Regulation (EC) No 444/2002 ([11]), certain references to the articles of that Regulation contained in Regulation (EC) No 800/1999 should be amended.

(6) Regulations (EC) No 800/1999 and (EC) No 2090/2002 should be amended accordingly.

(7) The Management Committees concerned have not delivered opinions within the time limits set by their chairmen,

HAS ADOPTED THIS REGULATION:

Article 1

Article 4(3) of Regulation (EEC) No 565/80 is hereby replaced by the following:

'3. As regards control procedures and the rate of yield, the basic products shall be subject to the same rules as apply in respect of inward processing to products of the same nature, with the exception of the rules on the standard rates of yield.

([1]) OJ L 181, 1.7.1992, p. 21.
([2]) OJ L 193, 29.7.2000, p. 1.
([3]) OJ L 62, 7.3.1980, p. 5.
([4]) OJ L 199, 22.7.1983, p. 12.
([5]) OJ L 42, 16.2.1990, p. 6.
([6]) OJ L 325, 17.12.1999, p. 12.
([7]) OJ L 322, 27.11.2002, p. 4.
([8]) OJ L 102, 17.4.1999, p. 11.
([9]) OJ L 183, 12.7.2002, p. 12.
([10]) OJ L 253, 11.10.1993, p. 1.
([11]) OJ L 68, 12.3.2002, p. 11.

The rates of yield to be applied for basic products used in the manufacture of the goods listed in Annex C to Commission Regulation (EC) No 1520/2000 (*) shall be those indicated in that Annex.

(*) OJ L 177, 15.7.2000, p. 1.'

Article 2

Regulation (EC) No 800/1999 is hereby amended as follows:

1. in Article 2(1)(h), 'Articles 471 to 495' is replaced by 'Articles 912a to 912g';

2. Article 10(1) is replaced by the following:

'1. Where the product is placed, in the Member State of export, under one of the simplified Community transit procedures for carriage of goods by rail or large containers provided for in Articles 412 to 442a of Regulation (EEC) No 2454/93 to a station of destination or for delivery to a consignee outside the customs territory of the Community, payment of the refund shall not be conditional on production of the T5 control copy.';

3. The following paragraph is added to Article 26:

'7. Products for which a payment declaration is accepted shall be subject to a physical check when the declaration is accepted, relating to a representative selection of at least 5 % of accepted payment declarations.

Article 3 of Regulation (EEC) No 386/90 and Article 2(2), Article 3, Article 4, Article 5, Article 6, Article 8(1) and (2), the first subparagraph of Article 11 of and Annex I to Commission Regulation (EC) No 2090/2002 (*) shall apply. However, in the case of products placed under prefinancing arrangements and intended for export after processing, the physical check shall concern only the quantity and type of product.

(*) OJ L 322, 27.11.2002, p. 4.'

4. Article 28(6) is replaced by the following:

'6. The period during which basic products may remain under customs control with a view to processing shall be equal to the remainder of the term of validity of the export licence.

Where export does not take place under cover of an export licence, the time limit shall be two months from the date of acceptance of the payment declaration.';

5. Article 29(5) is replaced by the following:

'5. The period during which products may remain under a customs-warehousing or free-zone procedure shall be equal to the remainder of the term of validity of the export licence.

Where export does not take place under cover of an export licence, the time limit shall be two months from the date of acceptance of the payment declaration.';

6. In the second subparagraph of Article 30(1), 'Article 349' is replaced by 'Article 357';

7. Article 53 is amended as follows:

(a) the second indent is replaced by the following:

'— for each 12-digit code, of the quantities of exported products not covered by export licences with advance fixing of the refund for the cases referred to in the first indent of the second subparagraph of Article 4(1), Article 6 and Article 45. The codes shall be grouped by sector. Member States shall take the measures required to ensure that such information is notified by no later than the second month following that of acceptance of the export declaration,';

(b) the following indent is added:

'— of the quantities, for each 12-digit code, of products, or for each eight-digit code, of goods placed under the prefinancing arrangements referred to in Chapter 3 of Title II. The codes shall be grouped by sector. Member States shall take the measures required to ensure that such information is notified by no later than the second month following that of acceptance of the payment declaration.'

Article 3

Article 9 of Regulation (EC) No 2090/2002 is hereby deleted.

Article 4

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

Article 1 and Article 2(4), (5) and (7)(b) shall apply to products covered by a payment declaration accepted from 1 October 2003.

Article 2(7)(a) shall apply to products covered by an export declaration accepted from 1 October 2003.

Article 2(3) shall apply to products covered by a payment declaration accepted from 1 January 2004.

Article 3 shall apply to products covered by an export declaration accepted from 1 January 2004.

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

Done at Brussels, 11 March 2003.

For the Commission
Franz FISCHLER
Member of the Commission