COMMISSION REGULATION (EC) No 1712/2004

of 30 September 2004

laying down transitory measures arising from the adoption of autonomous and transitional measures concerning the export of certain processed agricultural products to Bulgaria

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], and in particular Article 8(3) thereof,

Whereas:

(1) The Community has recently concluded a trade agreement for processed agricultural products with Bulgaria in preparation for its accession to the Community. This agreement provides for concessions involving on the Community side the abolition of export refunds on certain processed agricultural products.

(2) Council Regulation (EC) No 1676/2004 of 24 September 2004 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Bulgaria and the exportation of certain processed agricultural products to Bulgaria [2] provides on an autonomous basis for the abolition of refunds on processed agricultural products not listed in Annex I to the Treaty when exported to Bulgaria, from 1 October 2004.

(3) In return for the abolition of export refunds as set out in Regulation (EC) No 1676/2004, the Bulgarian authorities have undertaken to grant reciprocal preferential import arrangements to goods imported into their territory if the goods concerned are accompanied by a copy of the export declaration containing a special mention indicating that they are not eligible for payment of export refunds. The full rate of duty applies in the absence of such documentation.

(4) With the entry into force of Regulation (EC) No 1676/2004, goods for which operators have applied for refund certificates in accordance with Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying 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 [3] will no longer be eligible for refund when they are exported to Bulgaria.

(5) Reduction of refund certificates and pro-rata release of the corresponding security should be allowed where operators can demonstrate to the satisfaction of the national competent authority that their claims for refunds have been affected by the entry into force of Regulation (EC) No 1676/2004. When assessing requests for reduction of the amount of the refund certificate and proportional release of the relevant security, the national competent authority should, in cases of doubt, have regard in particular to the documents referred to in Article 1(2) of Council Regulation (EEC) No 4045/89 of 21 December 1989 on scrutiny by Member States of transactions forming part of the system of financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund and repealing Directive 77/435/EEC [4] without prejudice to the application of the other provisions of that Regulation.

(6) For administrative reasons it is appropriate to provide that requests for reduction of the amount of the refund certificate and release of the security are to be made within a short period and that the amounts for which reductions have been accepted are to be notified to the Commission in time for their inclusion in the determination of the amount for which refund certificates for use from 1 December 2004 shall be issued, pursuant to Regulation (EC) No 1520/2000.

(7) Since the autonomous and transitional measures laid down in Regulation (EC) No 1676/2004 will apply as from 1 October 2004 this Regulation should enter into force on the day following that of its publication.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee on horizontal questions concerning trade in processed agricultural products not listed in Annex I to the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

Goods in respect of which export refunds have been abolished by Regulation (EC) No 1676/2004 shall be imported free of customs duties, free of customs duties within quotas, or at reduced rates of customs duties into Bulgaria if the goods concerned are accompanied by a duly completed copy of the export declaration with the following entry in Box 44:

'Export Refund: EUR 0/Regulation (EC) No 1676/2004'.

[1] OJ L 318, 20.12.1993, p. 18. Regulation as last amended by Regulation (EC) No 2580/2000 (OJ L 298, 25.11.2000, p. 5).
[2] OJ L 301, 28.9.2004, p. 1.
[3] OJ L 177, 15.7.2000, p. 1. Regulation as last amended by Regulation (EC) No 886/2004 (OJ L 168, 1.5.2004, p. 14).
[4] OJ L 388, 30.12.1989, p. 18. Regulation as last amended by Regulation (EC) No 2154/2002 (OJ L 328, 5.12.2002, p. 4).

Article 2

1. Refund certificates issued in accordance with Regulation (EC) No 1520/2000 in respect of exports of the goods for which export refunds have been abolished by Regulation (EC) No 1676/2004 may, at request of the interested party, be reduced under the conditions provided for in paragraph 2 of this article.

2. To be eligible for reduction of the amount of the refund certificate, the certificates referred to in paragraph 1 must have been applied for before the date of entry into force of Regulation (EC) No 1676/2004 and their validity period must expire after 30 September 2004.

3. The certificate shall be reduced by the amount for which the interested party is unable to claim export refunds following the entry into force of Regulation (EC) No 1676/2004, as demonstrated to the satisfaction of the national competent authority.

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

4. The relevant security shall be released in proportion to the reduction concerned.

Article 3

1. To be eligible for consideration under Article 2, the national competent authority must receive the requests by 7 November 2004 at the latest.

2. Member States shall notify the Commission not later than 14 November 2004 of the amounts for which reductions have been accepted in accordance with Article 2(3) of this Regulation. The notified amounts shall be taken into account for the determination of the amount for which refund certificates for use before 1 December 2004 may be issued.

Article 4

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

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

Done at Brussels, 30 September 2004.

For the Commission
Olli REHN
Member of the Commission