COMMISSION REGULATION (EC) No 1713/2004

of 30 september 2004

laying down derogations from Regulation (EC) No 800/1999 as regards products in the form of goods not covered by Annex I to the Treaty exported to third countries other than 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) Article 16(1) of 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 [2], provides that 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] shall apply as regards exports of products in the form of goods not covered by Annex I to the Treaty.

(2) Article 3 of Regulation (EC) No 800/1999, provides that entitlement to the export refund is acquired on importation into a specific third country when a differentiated refund applies for that third country. Articles 14, 15 and 16 of that Regulation lay down the conditions for the payment of the differentiated refund, in particular the documents to be supplied as proof of the goods' arrival at destination.

(3) In the case of a differentiated refund, Article 18(1) and (2) of Regulation (EC) No 800/1999 provides that part of the refund, calculated using the lowest refund rate, is paid on application by the exporter once proof is furnished that the product has left the customs territory of the Community.

(4) 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 [4], 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.

(5) Bulgaria has undertaken to grant the preferential import arrangements to goods imported into its territory only if the goods concerned are accompanied by documents stating that they are not eligible for payment of export refunds.

(6) In the light of those arrangements, as a transitory measure in view of the possible accession to the European Union of Bulgaria and in order to avoid the imposition of unnecessary costs on operators in their commercial trade with other third countries, it is appropriate to derogate from Regulation (EC) No 800/1999 in so far as it requires proof of import in the case of differentiated refunds. It is also appropriate, where no export refunds have been fixed for the particular countries of destination in question, not to take account of that fact when the lowest rate of refund is determined.

(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

By way of derogation from Article 16 of Regulation (EC) No 800/1999, where the differentiation of the refund is the result solely of a refund not having been fixed for Bulgaria proof that the customs import formalities have been completed shall not be a condition for payment of the refund in respect of all goods listed in Annex B to Regulation (EC) No 1520/2000, which are covered by Regulation (EC) No 1676/2004.

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[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 177, 15.7.2000, p. 1. Regulation as last amended by Regulation (EC) No 886/2004 (OJ L 168, 1.5.2004, p. 14).

[3] OJ L 102, 17.4.1999, p. 11. Regulation as last amended by Regulation (EC) No 671/2004 (OJ L 105, 14.4.2004, p. 5).

[4] OJ L 301, 28.9.2004, p. 1.

Article 2

The fact that no export refund has been fixed in respect of the export to Bulgaria of the goods listed in Annex B to Regulation (EC) No 1520/2000, which are covered by Regulation (EC) No 1676/2004, shall not be taken into account in determining the lowest rate of refund within the meaning of Article 18(2) of Regulation (EC) No 800/1999.

Article 3

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

It shall apply from 1 October 2004.

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