COMMISSION REGULATION (EC) No 307/2004

of 20 February 2004

amending Regulation (EC) No 1520/2000 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 amounts of such refunds, and providing special measures in respect of certain refund certificates

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 the first subparagraph of Article 8(3) thereof,

Whereas:

(1) As provided for in Article 19 of Commission Regulation (EC) No 1520/2000 [2], that Regulation is to be adapted in line with amendments to the Combined Nomenclature and Annex B is to be adapted so as to maintain equivalence with the respective Annexes to the Regulations referred to in Article 1(1).

(2) Commission Regulation (EC) No 1789/2003 of 11 September 2003 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff [3] introduced amendments to the Combined Nomenclature for certain goods. In addition, Annex V to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [4] provides that from 1 February 2004 no export refunds may be paid on the sugar element of active yeasts.

(3) Regulation (EC) No 1520/2000 should be updated in order to take account of those changes.

(4) With the entry into force of this Regulation the sugar element incorporated in active yeasts, for which operators may have applied for refund certificates in accordance with Regulation (EC) No 1520/2000, will no longer be eligible for refund when they are exported to third countries.

(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 this Regulation.

(6) 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 [5] without prejudice to the application of the other provisions of that Regulation.

(7) 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 April 2004 are to be issued pursuant to Regulation (EC) No 1520/2000.

(8) Since the amendments to the Combined Nomenclature introduced by Regulation (EC) No 1789/2003 and the amendments introduced by Regulation (EC) No 39/2004 are applicable from 1 January 2004 and 1 February 2004 respectively, the amendments provided for in this Regulation should be applicable from the same dates.

(9) 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

In Regulation (EC) No 1520/2000, Annex B is amended as follows:

(a) in the row beginning with the entry '1905 90 40 to 1905 90 90' in column 1, that entry is replaced by:

'1905 90 45 to 1905 90 90';

(b) in the row beginning with the entry '2102 10 31 and 2102 10 39' in column 1, the 'X' in column 6 is deleted.

[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 740/2003 (OJ L 106, 29.4.2003, p. 12).
[3] OJ L 281, 30.10.2003, p. 1.
[4] OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).
[5] 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 agricultural products for which export refunds have been abolished pursuant to point (b) of Article 1 of this Regulation may, at the request of the interested party, be reduced if each of the following conditions are fulfilled:

(a) the certificates have been applied for before the date of entry into force of this Regulation;

(b) the validity of the certificates expires after the date of entry into force of this Regulation.

2. 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 the amendment provided for in point (b) of Article 1 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.

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

Article 3

1. For a request to be eligible for consideration under Article 2, the national competent authority must receive it by 7 March 2004, at the latest.

2. Member States shall notify the Commission not later than 14 March 2004 of the amounts for which reductions have been accepted in accordance with Article 2(2) of this Regulation. The notified amounts shall be taken into account for the determination of the amount for which refund certificates for use from 1 April 2004 are to be issued pursuant to point (d) of Article 8(1) of Regulation (EC) No 1520/2000.

Article 4

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

Point (a) of Article 1 shall apply from 1 January 2004.

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

Done at Brussels, 20 February 2004.

For the Commission

Erkki LIIKANEN

Member of the Commission