COMMISSION REGULATION (EC) No 763/2004

of 23 April 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 Cyprus, Hungary and Poland

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' importation into a third country.

(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) Commission Regulation (EC) No 646/2004 of 6 April 2004 fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex I to the Treaty [4], Commission Regulation (EC) No 644/2004 of 6 April 2004 fixing the rates of the refunds applicable to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty [5], Commission Regulation (EC) No 645/2004 of 6 April 2004 fixing the rates of the refunds applicable to certain cereal and rice products exported in the form of goods not covered by Annex I to the Treaty [6], and Commission Regulation (EC) No 643/2004 of 6 April 2004 fixing the rates of the refunds applicable to eggs and egg yolks exported in the form of goods not covered by Annex I to the Treaty provide that export refunds are not to be set in respect of goods not covered by Annex [7] to the Treaty when exported to Cyprus and Poland and in respect of goods not referred to in Article 1(2) of Regulation (EC) No 999/2003 [8] when exported to Hungary.

(5) The authorities in Cyprus, Hungary and Poland have consequently undertaken to allow imports of the goods concerned, which have been taken under customs control after 6 April 2004, to their territories only if they are accompanied by documents showing that they have been imported directly from the Community.

(6) 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) 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,

[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 543/2004 (OJ L 87, 25.3.2004, p. 8).
[3] OJ L 102, 17.4.1999, p. 11. Regulation as last amended by Regulation (EC) No 2010/2003 (OJ L 297, 15.11.2003, p. 13).
[4] OJ L 102, 7.4.2004, p. 42.
[5] OJ L 102, 7.4.2004, p. 35.
[6] OJ L 102, 7.4.2004, p. 38.
[7] OJ L 102, 7.4.2004, p. 32.
[8] OJ L 146, 13.6.2003, p. 10.

HAS ADOPTED THIS REGULATION:

Article 1

By way of derogation from Article 16(1) of Regulation (EC) No 1520/2000, where the differentiation of the refund is the result solely of a refund not having been fixed for Cyprus, Hungary or Poland, 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.

Article 2

The fact that no export refund has been fixed in respect of the export to Cyprus, Hungary or Poland of the goods listed in Annex B to Regulation (EC) No 1520/2000 shall not, in respect of exports to other third countries, 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 of its publication in the *Official Journal of the European Union*.

It shall apply from 7 April 2004.

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

Done at Brussels, 23 April 2004.

For the Commission
Erkki LIIKANEN
Member of the Commission