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COMMISSION REGULATION (EC) No 127/2005

of 27 January 2005

amending Regulation (EC) No 20/2002 laying down detailed rules for implementing the specific supply arrangements for the outermost regions introduced by Council Regulations (EC) No 1452/2001, (EC) No 1453/2001 and (EC) No 1454/2001

(OJ L 25, 28.1.2005, p. 12)

Corrected by:

►**C1** Corrigendum, OJ L 121, 13.5.2005, p. 90 (127/2005)

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1452/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the French overseas department, amending Directive 72/462/EEC and repealing Regulations (EEC) No 525/77 and (EEC) No 3763/91 (Poseidom) ([1]), and in particular Articles 3(6), 22, and the second subparagraph of Article 26 thereof,

Having regard to Council Regulation (EC) No 1453/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Azores and for Madeira and repealing Regulation (EEC) No 1600/92 (Poseima) ([2]), and in particular the first and second subparagraphs of Article 3(6), Article 34 and the second subparagraph of Article 38 thereof,

Having regard to Council Regulation (EC) No 1454/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Canary Islands and repealing Regulation (EEC) No 1601/92 (Poseican) ([3]), and in particular Articles 3(6), 20 and the second subparagraph of Article 26 thereof

Whereas:

(1) As a consequence to the adoption of Council Regulation (EC) No 1690/2004 of 24 September 2004 amending Regulations (EC) No 1452/2001, (EC) No 1453/2001 and (EC) No 1454/2001 as regards the conditions for the re-exportation and re-dispatch of products covered by the specific supply arrangements, detailed implementing rules should be laid down for these new provisions of the Council, and Commission Regulation (EC) No 20/2002 should therefore be amended ([4]).

(2) It is appropriate to simplify and to compile all provisions concerning the re-exportation and re-dispatch of agricultural products covered by the specific supply arrangements.

(3) The export of certain agricultural products is subject to the presentation of an export licence. For these products, which having benefited from a specific supply arrangement, are re-exported without export refunds, it is advisable, in the interests of administrative simplification, to exempt them from the requirement of the presentation of an export licence.

(4) Detailed rules should be laid down for recovery of the benefit granted and the consequences for the registration, in case of inobservance of the obligations undertaken by the trader within the framework of the specific supply arrangements.

(5) The measures laid down in this Regulation are in accordance with the opinions of all the Management Committees concerned,

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([1]) OJ L 198, 21.7.2001, p. 11. Regulation as last amended by Regulation (EC) No 1690/2004 (OJ L 305, 1.10.2004, p. 1).

([2]) OJ L 198, 21.7.2001, p. 26. Regulation as last amended by Regulation (EC) No 1690/2004.

([3]) OJ L 198, 21.7.2001, p. 45. Regulation as last amended by Regulation (EC) No 1690/2004.

([4]) OJ L 8, 11.1.2002, p. 1. Regulation as last amended by Regulation (EC) No 489/2004 (OJ L 79, 17.3.2004, p. 18).

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HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 20/2002 is amended as follows:

1. In Article 9, paragraphs 3 and 4 are replaced by the following:

‘3. When applying for registration as referred to in the first subparagraph of paragraph 2, the trader intending to re-export or re-dispatch unaltered products or processed products in accordance with Article 16, must declare his intention to engage in this activity and indicate the location of the packaging plant where applicable.

4. When applying for registration as referred to in the first subparagraph of paragraph 2, the processor intending to export or dispatch processed products in accordance with Articles 16 or 17, must declare his intention to engage in this activity and indicate the location of the processing plant.’

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2. Chapter VI shall be replaced by the following:

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‘CHAPTER VI

RE-EXPORTATION AND RE-DISPATCH

Article 16

Re-exportation and re-dispatch

1. Re-exportation and re-dispatch of unaltered products covered by the specific supply arrangement, or packed or processed products covered by the specific supply arrangement, are subject to the following requirements:

(a) for the re-exported products referred to in this paragraph, box 44 of the export declaration shall mention the following indication:

— “goods exported under the terms of the first subparagraph of Article 3(5) of Regulation (EC) No 1452/2001”,

— “goods exported under the terms of the first subparagraph of Article 3(5) of Regulation (EC) No 1453/2001”,

— “goods exported under the terms of the first subparagraph of Article 3(5) of Regulation (EC) No 1454/2001”;

(b) quantities of products which have been exempt from import duties and which are re-exported shall be re-attributed to the forecast supply balance; the products covered by this point shall not qualify for export refund;

(c) ►C1 quantities of products which have been exempt from import duties and which are re-dispatched shall be re-attributed to the forecast supply balance and the amount of the *erga omnes* import duties applicable at the day of importation is paid by the dispatcher at the latest at the time of re-dispatching; ◄

(d) quantities of products on which aid has been granted and which are re-exported or re-dispatched shall be re-attributed to the forecast supply balance and the aid granted shall be reimbursed at the latest at the time of re-exportation or re-dispatch; the products may not be subject to re-exportation or re-dispatch as long as afore mentioned reimbursement did not take place; in case it is not possible to establish the amount of supplies granted, the products are considered to have been granted the highest fixed supply by the Community for these products in the six months period preceding the submission of the request for re-exportation or re-dispatch; the products covered by this point may benefit an export refund as far as the awarding conditions are fulfilled.

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2. Re-exportation of the following products is not subject to the presentation of an export licence:

(a) the products as meant in point (b) of paragraph 1;

(b) the products as meant in point (d) of paragraph 1 which do not fulfill the awarding conditions for refunds.

3. If there is a risk that regular supplies to the outermost regions might be jeopardised by a significant increase in re-exports of products covered by this Article, the competent authorities may restrict quantities to be re-exported in such a way as to ensure that priority needs in the sectors concerned are met. This quantitative limitation is carried out in a non-discriminatory way.

Article 17

Traditional re-exportations, re-exportations within the framework of regional trade, and traditional re-dispatches of processed products

1. The processor who has declared, under Article 9(4), his intention to export in the context of regional trade, or dispatch in the context of traditional trade flows, processed products containing raw materials which have benefited from the specific supply arrangements, may do so within the limits of the annual quantities indicated in the Annexes I, III and V. The competent authorities deliver the necessary authorisations in such a way as to ensure that the operations do not exceed the annual quantities fixed.

For exports within the framework of regional trade, the exporter has to submit the documents provided for in Article 16 of Commission Regulation (EC) No 800/1999 (*) to the competent authorities within the time limits mentioned in Article 49 of the said Regulation. In case documents have not been submitted within the time limits provided, the competent authorities shall recover the benefit granted under the specific supply arrangements.

Products delivered to the French overseas departments, to the Azores, to Madeira and to the Canary Islands, which have benefited from the specific supply arrangements and which are used to victual ships and aircrafts, shall be deemed to have been consumed locally.

2. The competent authorities shall authorise the export or dispatch of quantities of processed products other than those referred to in paragraph 1 only where it is attested that the products concerned do not contain raw materials imported or introduced under the specific supply arrangements.

The competent authorities shall carry out the necessary checks to ensure the accuracy of the attestations referred to in the first subparagraph and shall recover, where appropriate, the benefit granted under the specific supply arrangements.

3. Processing operations which, within the limit of the quantities appearing in the Annexes I, III and V, may give rise to traditional or regional trade exports or traditional dispatches, must meet, *mutatis mutandis*, the processing conditions referred to on the inward processing arrangements and on the procedure for processing under customs control specified in Council Regulation (EEC) No 2913/92 (**) and Commission Regulation (EEC) No 2454/93 (***), with the exception of all usual forms of handling.

4. Re-exportation of products referred to in this article is not subject to the presentation of an export licence.

5. For the products exported under this article, box 44 of the export declaration shall mention the following indication:

— “goods exported under the terms of the second subparagraph of Article 3(5) of Regulation (EC) No 1452/2001”,

— “goods exported under the terms of the second subparagraph of Article 3(5) of Regulation (EC) No 1453/2001”,

— “goods exported under the terms of the second subparagraph of Article 3(5) of Regulation (EC) No 1454/2001”.

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Article 18

Sugar

During the period referred to in Article 10(1) of Council Regulation (EC) No 1260/2001 (****), C sugar as referred to in Article 13 of that Regulation, exported in accordance with the relevant provisions of Commission Regulation (EEC) No 2760/81 (*****), and introduced for the purposes of consumption in Madeira in the form of white sugar falling within CN code 1701 or into the Azores in the form of raw sugar falling within CN code 1701 12 10, shall benefit, under the terms of this Regulation, from the scheme of exemption from import duties within the limits of the forecast supply balances referred to in Article 3.

(*) OJ L 102, 17.4.1999, p. 11.
(**) OJ L 302, 19.10.1992, p. 1.
(***) OJ L 253, 11.10.1993, p. 1.
(****) OJ L 178, 30.6.2001, p. 1.
(*****) OJ L 262, 16.9.1981, p. 14.'.

3. In Article 22:

— the text of points (d) and (e) is replaced by the following text:

'(d) any quantities re-exported or re-dispatched under the terms of Article 16 and the unit amounts and total of recovered aid;

(e) any quantities dispatched after processing within the framework of traditional quantities under the terms of Article 17;'

— the points (f) and (g) are deleted.

4. In Article 26, the text of paragraph 1 is replaced by the following text:

'1. Except in cases of *force majeure* or climatic aberrations, if a trader fails to comply with the undertakings given under Article 9, and without prejudice to any penalties applicable under national law, the competent authorities shall:

(a) recover the benefit granted from the holder of the import licence, exemption certificate or aid certificate;

(b) provisionally suspend or revoke registration, depending on the seriousness of the breach of the obligations.

The benefit referred to in the first indent shall be equal to the amount of the exemption from import duties or to the amount of the aid determined in accordance with Article 16, points (c) and (d).'

Article 2

This Regulation enters into force the seventh day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 April 2005.

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