COMMISSION REGULATION (EC) No 450/2005

of 18 March 2005

on proof that customs formalities for importation of milk and milk products in third countries have been completed as provided for in Article 16 of Regulation (EC) No 800/1999

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1], and in particular the third indent of Article 31(10) thereof,

Whereas:

(1) The third indent of Article 31(10) of Regulation (EC) No 1255/1999 stipulates that in the case of differentiated refunds the refund is to be paid on presentation of proof that the products have reached the destination indicated on the licence or another destination for which a refund was fixed. Exceptions may be made to this rule in accordance with the procedure laid down in Article 42 of the same Regulation, provided conditions are laid down which offer equivalent guarantees.

(2) Commission Regulation (EC) No 351/2004 of 26 February 2004 fixing the export refunds on milk and milk products [2] has introduced refunds differentiated according to destination for all milk products from 27 February 2004.

(3) Article 16 of 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] indicates which documents may serve as proof that customs formalities for importation have been completed in a third country in cases where the refund rate is differentiated according to destination. Under that Article, the Commission may decide, in certain specific cases to be determined, that proof of import as referred to that Article may be furnished by a specific document or in any other way.

(4) Since subjecting the payment of refunds to the requirements of Article 16 of Regulation (EC) No 800/1999 entails a substantial change in the administrative procedures for both the national authorities and exporters, it has administrative implications and represents a significant financial burden. Obtaining the proof referred to in Article 16 of that Regulation can pose considerable administrative difficulties in some countries.

(5) To alleviate some of the administrative and financial constraints imposed on exporters, and in order to allow the authorities and exporters to set up the new arrangements for the products concerned and introduce the procedures needed to ensure that all the formalities to be completed run smoothly, Commission Regulation (EC) No 519/2004 of 19 March 2004 derogating from Regulation (EC) No 800/1999 as regards exports of milk and milk products [4] provides for a transitional period during which the proof that customs formalities for importation have been completed is made easier. Those provisions expire on 31 December 2004.

(6) However, in many of the countries of destination appropriate procedures and adequate means to provide for the necessary documents are still not in place. In order to prevent traders from not being granted the export refund for a lack of administrative procedures in the third countries, it is necessary to continue to provide for a transitional regime for the year 2005. On the basis of the experience gained in the application of Regulation (EC) No 519/2004, the transitional regime provided for in that Regulation should be adapted in order to provide for the submission of additional documents.

(7) It is appropriate to remind the provisions of Article 20 of Regulation (EC) No 800/1999 allowing the competent authorities of the Member States, in case any doubt exists as to the destination of the exported products, to require additional evidence for all refunds proving to their satisfaction that the product has actually been placed on the market in the importing third country.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

[1] OJ L 160, 26.6.1999, p. 48. Regulation last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).
[2] OJ L 60, 27.2.2004, p. 46.
[3] OJ L 102, 17.4.1999, p. 11. Regulation last amended by Regulation (EC) No 671/2004 (OJ L 105, 14.4.2004, p. 5).
[4] OJ L 83, 20.3.2004, p. 4.

HAS ADOPTED THIS REGULATION:

Article 1

1. In the case of exports of products falling within CN codes 0401 to 0405 carried out under Article 31 of Regulation (EC) No 1255/1999 for which the exporter is unable to provide the proof referred to in Article 16(1) and (2) of Regulation (EC) No 800/1999, products shall, by derogation from that Article, be deemed to have been imported into a third country on presentation of the following three documents:

(a) a copy of the transport document;

(b) a declaration that the product has been unloaded, drawn up by an official authority of the third country in question, by the official authorities of a Member State established in the country of destination, or by an international supervisory agency approved in conformity with Articles 16a to 16f of Regulation (EC) No 800/1999, certifying that the product has left the place of unloading or at least that, to the knowledge of the authority or agency issuing the declaration, the product has not subsequently been reloaded for re-exportation;

(c) a bank document issued by approved intermediaries established in the Community, certifying that payment for the export in question has been credited to the account of the exporter opened with them, or the proof of payment.

2. For the purposes of applying Article 20 of Regulation (EC) No 800/1999 Member States shall take into account the provisions laid down in paragraph 1.

Article 2

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

It shall apply to export declarations accepted from 1 January 2005 until 31 December 2005.

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

Done at Brussels, 18 March 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission