

## COMMISSION REGULATION (EEC) No 1842/81

of 3 July 1981

laying down detailed rules for implementing Regulation (EEC) No 1188/81  
relating to general rules for granting refunds adjusted in the case of cereals  
exported in the form of certain spirituous beverages

THE COMMISSION OF THE EUROPEAN  
COMMUNITIES,

Having regard to the Treaty establishing the European  
Economic Community,

Having regard to Council Regulation (EEC) No  
2727/75 of 29 October 1975 on the common organiza-  
tion of the market in cereals<sup>(1)</sup>, as last amended by  
Regulation (EEC) No 1784/81<sup>(2)</sup>, and in particular  
Articles 16 (6) and 24 thereof,

Having regard to Council Regulation (EEC) No  
1188/81 of 28 April 1981 laying down general rules  
for granting refunds adjusted in the case of cereals  
exported in the form of certain spirituous beverages  
and amending Regulation (EEC) No 3035/80  
concerning certain products not covered by Annex II  
to the Treaty<sup>(3)</sup>, and in particular Article 12 thereof,

Whereas pursuant to Article 4 (2) of Regulation (EEC)  
No 1188/81 the rate of the refund is that applicable  
on the day on which the cereals are placed under  
control; whereas the date to be taken into considera-  
tion must therefore be the date on which the customs  
authorities accept the payment declaration by the  
person concerned by which he manifests his intention  
to distil and to export the products and qualify for a  
refund; whereas this declaration must include the  
information necessary for calculating the refunds;

Whereas, for the purposes of Article 3 of Regulation  
(EEC) No 1188/81 and in particular for determining  
the coefficient, it is necessary to define what is meant  
by 'total export quantities' and 'total quantities  
released to the market';

Whereas it is necessary for the application of this  
Regulation for it to be known that the products have  
left the Community and in certain cases also for their  
destination to be known; whereas for this reason it is  
necessary to have recourse to the definition of exporta-  
tion set out in Council Directive 81/177/EEC<sup>(4)</sup> and  
to the proofs provided for in Commission Regulation  
(EEC) No 2730/79 of 29 November 1979 laying down  
common detailed rules for the application of the  
system of export refunds on agricultural products<sup>(5)</sup>,  
as last amended by Regulation (EEC) No 1663/81<sup>(6)</sup>;

Whereas it should be laid down that the Member  
States shall pass on to the Commission the necessary  
information;

Whereas the measures provided for in this Regulation  
are in accordance with the opinion of the Manage-  
ment Committee for Cereals,

HAS ADOPTED THIS REGULATION :

*Article 1*

1. Receipt of the export refund for cereals exported  
in the form of one of the spirituous beverages covered  
by Regulation (EEC) No 1188/81 shall be subject to  
the lodging with the competent authorities of a decla-  
ration, termed 'payment declaration' below, in which  
the operator states his intention to distil the cereals in  
order to produce one of the spirituous beverages  
covered by that Regulation.

2. The payment declaration shall include all the  
particulars as are necessary for determining the  
refund, in particular :

- (a) a description of the cereals or malt in accordance  
with the nomenclature used for refunds;
- (b) the net weight of the products.

*Article 2*

1. At the time of acceptance of the payment decla-  
ration, the cereals or malt shall be placed under  
customs control or under the administrative control  
referred to in Article 3 (5) of Regulation (EEC) No  
1188/81 until such time as they have been distilled.

2. The date of acceptance of the payment decla-  
ration shall determine the rate of the refund.

*Article 3*

1. The result of the examination of the payment  
declaration, whether or not combined with the exami-  
nation of the cereals or malt, shall be used for deter-  
mining the refund.

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 177, 1. 7. 1981, p. 1.

<sup>(3)</sup> OJ No L 121, 5. 5. 1981, p. 3.

<sup>(4)</sup> OJ No L 83, 30. 3. 1981, p. 40.

<sup>(5)</sup> OJ No L 317, 12. 2. 1979, p. 1.

<sup>(6)</sup> OJ No L 166, 24. 6. 1981, p. 9.

2. Paragraph 1 shall not preclude any subsequent verification by the competent authorities of the Member State concerned or any consequences of such verification which may result from the application of the provisions in force.

#### Article 4

1. As regards procedures for checking the distillation process, including the yield, the cereals or malt shall be subject to the same rules as apply in respect of inward processing arrangements.

2. The by-products of processing shall be exempt from control if it has been established that they do not exceed the quantity of by-products normally obtained.

3. No refund shall be granted where the cereals or malt are not of sound and fair merchantable quality.

#### Article 5

1. The refund shall be paid only upon presentation of a payment declaration, which shall also contain confirmation that the cereals or malt have been distilled. This confirmation shall be provided by the competent authorities.

2. The refund shall be paid by the Member State in which the payment declaration is accepted.

3. The refund shall be paid only on written application by the operator. Member States may prescribe a special form to be used for this purpose.

4. Except in cases of *force majeure* the documents required for the granting of the refund must be lodged within 12 months of the day on which the competent authorities accepted the payment declaration, otherwise entitlement to the refund shall be lost.

#### Article 6

For the purposes of Article 3 of Regulation (EEC) No 1188/81 :

- (a) 'total export quantities' means the quantities of spirituous beverages fulfilling the terms of Article 9 (2) of the Treaty and exported to a destination for which the refund applies. The proofs to be furnished shall be those specified in Article 12 of this Regulation ;
- (b) 'quantities released to the market' means the quantities of spirituous beverages fulfilling the terms of Article 9 (2) of the Treaty which have been finally dispatched for human consumption from production or storage facilities.

#### Article 7

If the refund is abolished pursuant to Article 5 of Regulation (EEC) No 1188/81 or if it is reintroduced, the coefficient referred to in Article 3 (1) of the said Regulation shall be reduced or increased, as appropriate, in proportion to the relationship between the quantities exported the previous year to the destinations for which the refund is abolished or reintroduced and the total quantities exported that year. The quantities exported may be determined from existing data.

#### Article 8

For the purposes of Article 6 (a), spirituous beverages shall be deemed to have been exported on the day on which customs export formalities were completed.

However, if proof of export is furnished, pursuant to Article 14 (2), too late for the consignment to be counted in with exports carried out during the same calendar year, the export consignment in question shall be included with exports carried out in the following calendar year.

#### Article 9

The coefficient referred to in Article 3 (1) of Regulation (EEC) No 1188/81 shall be fixed before 1 August each year.

It shall apply from that date until 31 July of the following year. The coefficient shall be fixed in accordance with information supplied by the Member States for the period 1 January to 31 December of the year preceding the fixing.

#### Article 10

The coefficient to be used for calculating the barley equivalent of malt referred to in Article 7 of Regulation (EEC) No 1188/81 shall be : 1.33.

#### Article 11

1. Advance payment, at the time the cereals or malt are placed under control, of a sum equal to the refund shall be subject to the lodging of a security equal to the amount to be paid plus :

- (a) 5 % if the operator undertakes to distil the cereals within 30 days of the date on which the payment declaration was accepted ;
- (b) 15 % in other cases.

2. The refund due shall be set off against the amount paid in advance when proof of distillation of the cereals or malt is produced and, if paragraph 1 (a) applies, distillation has been carried out within the prescribed period.

3. The release of the security shall be subject to the production of proof that the cereals or malt have been distilled, where appropriate, before the expiry of the prescribed period. On application by the person concerned, Member States may release the security by instalments in proportion to the quantities of cereals or malt in respect of which the proof of distillation laid down has been provided.

#### Article 12

1. For the purposes of Article 6, the proof of exportation and, where Article 5 of Regulation (EEC) No 1188/81 is applicable, the proof of importation into a non-member country in respect of which the refund applies shall be the proofs provided for in Regulation (EEC) No 2730/79.

2. For the purposes of this Regulation, 'exports' means :

- exports as defined in Directive 81/177/EEC, and
- deliveries to destinations covered by Article 5 of Regulation (EEC) No 2730/79.

#### Article 13

1. For the purposes of this Regulation, the declaration submitted when the customs export formalities are completed must contain :

- (a) a description of the spirituous beverages concerned, in accordance with the nomenclature of the Common Customs Tariff ;
- (b) the quantities, expressed in litres of pure alcohol, of spirituous beverages being exported ;
- (c) a description of, or other reference to, the composition of the spirituous beverages such that the type of cereals used can be determined ;
- (d) the Member State of production.

2. For the purposes of paragraph 1 (c), if the spirituous beverage is obtained from different types of cereals and it results from a subsequent mixture it shall be sufficient to state this in the declaration.

#### Article 14

1. For a quantity of a spirituous beverage to be deemed to have been exported, the proofs referred to in Article 12 must be submitted to the designated authorities within six months of the date on which the customs export formalities are completed.

2. Where the proofs required cannot be submitted within the prescribed period, although the exporter

has acted with all due diligence to obtain them within such period, he may be granted an extension of time. This extension shall not exceed six months.

#### Article 15

1. In the case of cereals or malt placed under the control of a national authority in the period 1 August 1973 to 30 June 1981, operators who wish to qualify for refunds must submit an application to the competent body containing the following details :

- the quantity and type of cereals or malt used, and
- the date when they were placed under the control of the national authority concerned.

The competent body shall verify this information as necessary using any appropriate documents.

2. The Member States concerned shall provide the Commission as soon as possible with the information specified in Article 16 (2) (a), (b), (c) and (d) relating to the year 1979.

3. The Member States concerned shall provide the Commission before 16 July 1981 with the information specified in Article 16 (2) (a), (b), (c) and (d) relating to the years 1972, 1973, 1974, 1975, 1976, 1977 and 1978.

4. The Member States concerned shall notify the Commission before 16 October 1981 of the quantities of spirituous beverages in store on 31 December of the years 1972, 1973, 1974, 1975, 1976, 1977, 1978 and 1979 and of the quantities produced during those years.

#### Article 16

1. Member States shall inform the Commission of the names and addresses of the competent bodies.

2. Member States shall provide the Commission with the following information before 16 July each year :

- (a) the quantities of cereals and malt fulfilling the terms of Article 9 (2) of the Treaty and placed under control in the period 1 January to 31 December of the preceding year, broken down in accordance with the Common Customs Tariff classification ;
- (b) the quantities of cereals and malt, broken down in accordance with Common Customs Tariff classification, which were the subject of inward processing arrangements during the same period ;
- (c) the quantities of spirituous beverages covered by Article 2 of Regulation (EEC) No 1188/81, broken down in accordance with the categories given in Article 17, including both quantities exported and quantities released to the market during the same period ;

- (d) the quantities of spirituous beverages produced under inward processing arrangements and exported to third countries during the same period, broken down in accordance with the categories given in Article 17;
- (e) the quantities of spirituous beverages in store on 31 December of the preceding year and the quantities produced during that period.
3. Member States shall also provide the Commission with the information listed under (a), (b), (c) and (d) for each calendar quarter before 16 October, 16 January and 16 April, where available.

*Article 17*

For the purposes of Article 16:

- (a) 'grain whisky' means whisky made from 15 % barley and 85 % maize;

- (b) 'malt whisky' means whisky made exclusively from barley or malt;
- (c) the percentages of the various types of cereals used in the manufacture of the spirituous beverages referred to in Article 13 (2) shall be determined on the basis of the total amounts of the different cereals used in manufacturing the spirituous beverages referred to in Article 2 of Regulation (EEC) No 1188/81.

*Article 18*

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

It shall apply with effect from 1 July 1981.

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

Done at Brussels, 3 July 1981.

*For the Commission*

*The President*

Gaston THORN

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