

COMMISSION REGULATION (EC) No 1199/95
of 29 May 1995

amending Regulation (EEC) No 3719/88 laying down common detailed rules for the application of the system of import and export licences and advance-fixing certificates for agricultural products, to take account of the adjustments necessary for implementing the Agreement on Agriculture resulting from the Uruguay Round

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden and by Regulation (EC) No 3290/94⁽²⁾, and in particular Article 9 (2) and Article 13 (11) thereof, as well as the relevant provisions of the other regulations on common organizations of the market in agricultural products,

Whereas implementation of the Agreement on Agriculture resulting from the Uruguay Round involves important adjustments to the system of licences and certificates;

Whereas certificates, and in particular export licences with advance fixing of the refund, now become a basic element in the sound administration of the Agreement;

Whereas the issuing of export licences with advance fixing of the refund is designed to make it possible to know the precise amount of refund which will be paid and credited under the Agreement; whereas, consequently, it appears proper to issue certificates for products designated by a code of eleven digits as used in fixing the rate of refunds;

Whereas, in order for full use to be made of the possibilities for exports of agricultural products assisted by refunds, it is necessary to create a system to encourage operators to return quickly to the issuing agency those licences which they do not intend to use; whereas a system also needs to be created to encourage operators to return licences to the issuing agency as soon as possible after their expiry date in order that the quantities unused may be re-used as soon as possible;

Whereas it is necessary or desirable to make other changes to Commission Regulation (EEC) No 3719/88⁽³⁾, as last amended by Regulation (EC) No 340/95⁽⁴⁾;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3719/88 is amended as follows:

1. Article 1 is replaced by the following:

Article 1

This Regulation establishes, without prejudice to derogating provisions laid down in Community legislation specific to certain products, the common rules for applying the system of import and export licences and advance-fixing certificates (hereinafter referred to as "licences" and "certificates" as the case may be) introduced by or provided for in:

- Article 2 of Council Regulation No 136/66/EEC (oils and fats)⁽¹⁾,
- Article 8 of Council Regulation (EEC) No 234/68 (live plants and cut flowers)⁽²⁾,
- Article 13 of Council Regulation (EEC) No 804/68 (milk and milk products)⁽³⁾,
- Article 9 of Council Regulation (EEC) No 805/68 (beef and veal)⁽⁴⁾,
- Article 4 of Council Regulation (EEC) No 2358/71 (seeds)⁽⁵⁾,
- Article 22 of Council Regulation (EEC) No 1035/72 (fruit and vegetables)⁽⁶⁾,
- Article 8 of Council Regulation (EEC) No 2759/75 (pigmeat)⁽⁷⁾,
- Article 3 of Council Regulation (EEC) No 2771/75 (eggs)⁽⁸⁾,
- Article 3 of Council Regulation (EEC) No 2777/75 (poultrymeat)⁽⁹⁾,
- Article 2 of Council Regulation (EEC) No 2783/75 (ovalbumin and lactalbumin)⁽¹⁰⁾,
- Article 10 of Council Regulation (EEC) No 1418/76 (rice)⁽¹¹⁾,
- Article 13 of Council Regulation (EEC) No 1785/81 (sugar, isoglucose and insulin syrup)⁽¹²⁾,

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ No L 331, 2. 12. 1988, p. 1.

⁽⁴⁾ OJ No L 39, 21. 2. 1995, p. 1.

- Article 9 of Council Regulation (EEC) No 426/86 (processed fruit and vegetables)⁽¹³⁾,
- Article 52 of Council Regulation (EEC) No 822/87 (wine)⁽¹⁴⁾,
- Article 9 of Council Regulation (EEC) No 3013/89 (sheepmeat and goatmeat)⁽¹⁵⁾,
- Article 9 of Council Regulation (EEC) No 1766/92 (cereals)⁽¹⁶⁾,
- Article 17 of Council Regulation (EEC) No 404/93 (bananas)⁽¹⁷⁾,
- Article 6 of Council Regulation (EC) No 1222/94 (agricultural products exported in the form of goods not covered by Annex II to the Treaty)⁽¹⁸⁾.

(1) OJ No 172, 30. 9. 1966, p. 3025/66.

(2) OJ No L 55, 2. 3. 1968, p. 1.

(3) OJ No L 148, 28. 6. 1968, p. 13.

(4) OJ No L 148, 28. 6. 1968, p. 24.

(5) OJ No L 246, 5. 11. 1971, p. 1.

(6) OJ No L 118, 20. 5. 1972, p. 1.

(7) OJ No 282, 1. 11. 1975, p. 1.

(8) OJ No L 282, 1. 11. 1975, p. 49.

(9) OJ No L 282, 1. 11. 1975, p. 77.

(10) OJ No L 282, 1. 11. 1975, p. 104.

(11) OJ No L 166, 25. 6. 1976, p. 1.

(12) OJ No L 177, 1. 7. 1981, p. 4.

(13) OJ No L 49, 27. 2. 1986, p. 1.

(14) OJ No L 84, 27. 3. 1987, p. 1.

(15) OJ No L 289, 7. 10. 1989, p. 1.

(16) OJ No L 181, 1. 7. 1992, p. 21.

(17) OJ No L 47, 25. 2. 1993, p. 1.

(18) OJ No L 136, 31. 5. 1994, p. 5.

2. Article 2 is amended as follows:

(a) in the first indent of point (b), the words 'or agricultural levies' are deleted;

(b) paragraph 2 is deleted.

3. Article 12 (1) is replaced by the following:

'1. When a licence fixing the refund in advance is used to export a mixture, the mixture shall not be eligible on export for the rate so fixed in advance where the tariff classification of the constituent on which the refund applicable to the mixture is calculated does not correspond to that of the mixture.'

4. The following Article 13a is inserted:

Article 13a

Applications for licences with advance fixing of the refund and the licences themselves shall indicate, in section 16, the eleven-digit code of the product taken from the nomenclature of agricultural products for use with export refunds.

However, where the rate of refund is the same for several codes in the same category, as determined in

accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC and the corresponding articles of the other regulations governing the common organizations of the market, these codes may be entered together on applications for licences and on the licences themselves.

Where rates of refund are differentiated according to destination, the country of destination or, as relevant, the area of destination must be indicated in section 7 on both applications and the licences themselves.'

5. The following Article 14a is inserted:

Article 14a

Applications for licences and licences with or without advance fixing of the refund which are drawn up in connection with a food-aid operation within the meaning of Article 10 (4) of the Agreement on Agriculture concluded as part of the Uruguay Round of multilateral trade negotiations shall contain, in section 20, at least one of the following wordings.

- Certificado GATT — Ayuda alimentaria
- GATT-licens — fødevarehjælp
- GATT-Lizenz, Nahrungsmittelhilfe
- Πιστοποιητικό GATT — επισιτιστική βοήθεια
- Licence under GATT — food aid
- Certificat GATT — aide alimentaire
- Titolo GATT — Aiuto alimentare
- GATT-certificaat — Voedselhulp
- Certificado GATT — ajuda alimentar
- GATT-todistus — elintarvikeapu
- GATT-licens — livsmedelsbistånd

The country of destination must be indicated in section 7. This licence is valid only for exports in the context of such food-aid operations.'

6. Article 17 is deleted.

7. In Article 22 (1), point (a) is replaced by the following:

'(a) in the case of an import licence, the import declaration is accepted';

8. Article 23 (3) is replaced by the following:

'3. The Member State shall decide which authority is to attribute and stamp the certificate.

However, the attribution and stamping of the certificate shall also be deemed to have been carried out where a document detailing the exported quantities has been generated by computer. This document must be attached to the certificate and be filed with it.

The date counting as the date of attribution shall be the date of acceptance of the declaration referred to in point (b) of Article 22 (1).'

9. The following subparagraph is added to Article 30 (1):

'However, when the 60-day deadline referred to in point (b) (i) of the first subparagraph or the 30-day deadline referred to in point (b) (ii) of the first subparagraph is passed, the security shall be released in accordance with Article 23 (2) of Regulation (EEC) No 2220/85.'

10. Article 33 is amended as follows:

(a) the following subparagraph is added to paragraph 2:

'With regard to export licences with advance fixing of the refund:

- where the licence is returned to the issuing body within a period corresponding to the initial two thirds of its term of validity, the amount of security to be forfeited shall be reduced by 40 %. For this purpose, any part of a day counts as a whole day;
- where the licence is returned to the issuing body within a period corresponding to the last third of its term of validity or during the month following the expiry date, the amount of security to be forfeited shall be reduced by 25 %.'

(b) paragraph 3 is replaced by the following:

'3. (a) — The proof referred to in the introductory phrase to points (a) and (b) of Article 30 (1) must be produced within two months of the expiry of the licence or certificate, unless this is impossible for reasons of *force majeure*.

- The proof referred to in points (b) (i) and (ii) of Article 30 (1) must be produced within six months of the expiry of the licence or certificate, unless this is impossible for reasons of *force majeure*.

(b) However,

- (i) the amount to be forfeited in respect of quantities for which proof concerning the export licence with advance fixing of the refund has not been provided within the time-limit set under the first indent of subparagraph (a) shall be reduced:

- by 80 % if the proof is provided in the third month following the date of expiry of the licence or certificate;
- by 40 % if the proof is provided in the fourth month following the date of expiry of the licence or certificate;
- by 20 % if the proof is provided in the fifth month following the date of expiry of the licence or certificate;
- by 10 % if the proof is provided in the sixth month following the date of expiry of the licence or certificate;

- (ii) in cases other than in point (i), the amount to be forfeited in respect of quantities for which proof is not provided within the time-limit set in subparagraph (a) and at the latest in the 24th month following the date of expiry of the licence or certificate shall be 15 % of the amount which would have been forfeited completely if the products had not been imported or exported; where, for a given product, there are licences or certificates with different levels of security, the lowest rate applicable to imports or exports shall be used to calculate the amount to be forfeited.

If the total amount to be forfeited is ECU 5 or less, the amount to be reimbursed shall be the total amount.'

Article 2

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

This Regulation shall apply to licence applications lodged as from 1 July 1995.

However, with regard to export licences:

- for products of the rice and wine sectors, this Regulation shall apply to licence applications lodged as from 1 September 1995.
- for products of the olive-oil sector, this Regulation shall apply to licence applications lodged as from 1 November 1995.

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

Done at Brussels, 29 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission
