Commission Regulation (EC) No 240/2009 of 20 March 2009 amending Regulation (EC) No 1282/2006 as regards export licences and export refunds for milk and milk products

COMMISSION REGULATION (EC) No 240/2009

of 20 March 2009

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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 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)[(1)], and in particular Articles 170 and 171 in conjunction with Article 4 thereof,

Whereas:

(1) Article 16 and Appendix 2 of Annex III to the Economic Partnership Agreement between the Cariforum States, of the one part, and the European Community and its Member States, of the other part[(2)], the signature and provisional application of which has been approved by Council Decision 2008/805/EC[(3)], provide for the tariff quota of milk powder previously contained in the Memorandum of Understanding between the European Community and the Dominican Republic on import protection for milk powder in the Dominican Republic[(4)], approved by Council Decision 98/486/EC[(5)]. Article 29(1) of Commission Regulation (EC) No 1282/2006[(6)] should be updated accordingly.

(2) Article 30(1)(b) of Regulation (EC) No 1282/2006 provides that applicants in the second part of the quota have to prove that they have been engaged in trade with third countries. It appears that this condition can be interpreted in different ways. It should therefore be clarified by specifying that trade with third countries has to be proven by presentation of the relevant customs documents.

(3) Article 30(3) of Regulation (EC) No 1282/2006 provides for a security of EUR 15 per 100 kilograms. With a view on harmonisation and simplification it is appropriate to align it to the general level, as provided for in Article 10 of that Regulation, which is also applicable for the management of the cheese quota referred to in Section 2 of Chapter III of that Regulation.

(4) Regulation (EC) No 1282/2006 should therefore be amended accordingly.

(5) It should be provided for that the amended provisions should not apply on licences that have been issued already.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1282/2006 is amended as follows:

1. Paragraph 1 of Article 29 is replaced by the following:

1. The presentation to the competent authorities of the Dominican Republic of a certified copy of the export licence issued in accordance with this Section and a duly endorsed copy of the export declaration for each consignment shall be required for exports to the Dominican Republic of milk powder under the quota provided for in Appendix 2 of Annex III to the Economic Partnership Agreement between the Cariforum States and the European Community and its Member States[7], the signature and provisional application of which has been approved by Council Decision 2008/805/EC[8].

2. Article 30 is amended as follows:

(a) In paragraph 1 the following subparagraph is added:

Proof of trade, as provided for in point (b) of the first subparagraph, shall be furnished exclusively either by means of the customs documents of release for free circulation, duly endorsed by the customs authorities and containing a reference to the applicant concerned as being the consignee, or by means of the customs document of exportation duly endorsed by the customs authorities.

(b) In the second subparagraph of paragraph 3, point (a) is replaced by the following:

(a) lodge a security in accordance with Article 10;.

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 licence applications lodged as from 1 April 2009.

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

Done at Brussels, 20 March 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission