Commission Regulation (EC) No 499/2008 of 4 June 2008 amending Regulation (EC) No 1501/95 and Regulation (EC) No 800/1999 as regards the conditions of granting export refunds on agricultural products

COMMISSION REGULATION (EC) No 499/2008

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amending Regulation (EC) No 1501/95 and Regulation (EC) No 800/1999 as regards the conditions of granting export refunds on agricultural products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine[(1)], and in particular Article 63 thereof,

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[(2)], and in particular Article 167 and Article 170 in conjunction with Article 4 thereof,

Whereas:

(1) In accordance with Article 162 of Regulation (EC) No 1234/2007 products listed in that article to be exported with or without further processing may be eligible to export refunds if they comply with specific conditions laid down in Article 167 of the said Regulation. Moreover, Article 167(7) of Regulation (EC) No 1234/2007 gives the possibility to the Commission to establish further conditions for the granting of export refunds for one or more products. Those conditions are currently laid down in the Council regulations on the common organisation of the market in the sectors listed in Article 162(1) of Regulation (EC) No 1234/2007. Since those regulations are to be repealed pursuant to Article 201 of Regulation (EC) No 1234/2007, horizontal provisions should be established as from the dates of application of Regulation (EC) No 1234/2007 as provided for in Article 204 of that Regulation.

(2) Horizontal provisions already exist in 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)]. It is therefore appropriate to adapt that Regulation in order to establish the conditions referred to in Article 167(7) of Regulation (EC) No 1234/2007.

(3) Council regulations on the common organisation of the markets in the poultry, eggs, pigmeat and rice sectors enabled eligibility to export refunds for non-Community originating products which were imported and subsequently exported while they were not sufficiently processed within the meaning of Article 24 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code[(4)]. The refunds in that case are limited to the import duties paid and in addition the exporter had to prove that import and export products are one and the same. As the application

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of the rule is cumbersome and of very low practical use, from a point of view of simplification and harmonisation it should not be maintained.

(4) Community origin as a prerequisite for eligibility to export refunds is an important safeguard against abuse of the Community budget. In particular, it is aimed at preventing diversion of trade in the form of import operations which would have no commercial purpose related to the placing of goods on the EU market, but which would be motivated solely by the opportunity to collect export refunds upon export. This safeguard has been in place for the cereals, rice, beef and veal, milk and milk products, pigmeat, eggs and poultrymeat and should be maintained. In the interest of continuous protection against abuse of the Community budget, a horizontal provision covering all sectors listed in Article 162 of Regulation (EC) No 1234/2007 is necessary.

(5) As regards sugar, with a view to organising flow of supplies to refineries throughout the Community, special preferential arrangement for access to the Community market has been introduced in the successive common market organisations for sugar, allowing the refining industry to import on special terms certain quantities of raw cane sugar originating in the ACP States party to Protocol No 3 to Annex IV to the ACP-EC Partnership Agreement and in India and other States under agreements with those States. This preferential import arrangement has been implemented within the framework of the common organisation of the market in sugar. Consequently, Article 27(12) (b) of Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector[(5)] provided that refunds had to be granted for the products imported under this arrangement. Following the same approach, the Council decided that the proof of Community origin had not to be required for eligibility of refunds under the common organisation of the markets in the sugar sector established by Council Regulation (EC) No 318/2006[(6)]. The requirement of Community origin should therefore not apply to the sugar sector.

(6) Pursuant to the abolition of export refunds for some products, the list of products for which the refunds has to be fixed on the basis of an ingredient when compound products qualify for a refund became shorter. It is therefore appropriate to mention only the remaining products in this respect.

(7) The requirement of Community origin in the cereals sector has already been laid down in Article 12 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals[(7)]. For the sake of transparency and rationalisation this requirement should be replaced by the horizontal provision establishing the requirement of Community origin.

(8) Regulations (EC) No 1501/95 and (EC) No 800/1999 should therefore be amended accordingly.

(9) 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:

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Article 1

Article 12 of Regulation (EC) No 1501/95 is deleted.

Article 2

Regulation (EC) No 800/1999 is amended as follows:

1. Article 1 is replaced by the following:

Article 1

Without prejudice to derogations provided for in Community regulations specific to certain products, this Regulation lays down common detailed rules for the application of the system of export refunds, hereinafter referred to as "refunds":

(a) for the products of the sectors referred to in Article 162(1) of Council Regulation (EC) No 1234/2007[8];

(b) provided for in Article 63 of Council Regulation (EC) No 1493/1999[9].

2. Article 11 is replaced by the following:

Article 11

1 Refunds shall be granted for products referred to in Article 162(1) of Regulation (EC) No 1234/2007 which, irrespective of the customs situation regarding the packaging, are in free circulation and of Community origin.

However, for sugar products referred to in Article 162(1)(2)(iii) 2nd (b) of Regulation (EC) No 1234/2007, refunds can be granted when they are only in free circulation.

2 For the grant of the refund, products are of Community origin if they are wholly obtained in the Community or if they underwent their last substantial processing or working in the Community in accordance with the provisions of Article 23 or 24 of Regulation (EEC) No 2913/92.

However, without prejudice to paragraph 4, products obtained from the following shall not qualify for refund:

a materials originating in the Community; and

b agricultural materials covered by the regulations referred to in Article 1 imported from third countries which did not undergo a substantial processing in the Community.

3 Where the refund is granted on condition that the product is of Community origin, exporters shall declare the origin as defined in paragraph 2 in accordance with the Community rules in force.

4 Where compound products qualifying for a refund on one or more of their ingredients are exported, the refund on the latter shall be granted subject to its or their compliance with the condition set out in paragraph 1.

The refund shall also be granted where the ingredient, or ingredients, in respect of which the refund is claimed were originally of Community origin and/or in free circulation as provided for in paragraph 1 and are no longer in free circulation on account solely of their incorporation in other products.

5 For the purposes of paragraph 4, refunds on the following shall be deemed to be refunds fixed on the basis of an ingredient: