Commission Regulation (EC) No 257/2007 of 9 March 2007 derogating from Regulation (EC) No 800/1999 as regards proof that customs formalities for importation of milk and milk products in third countries have been completed

COMMISSION REGULATION (EC) No 257/2007

of 9 March 2007

derogating from Regulation (EC) No 800/1999 as regards proof that customs formalities for importation of milk and milk products in third countries have been completed

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 in 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. Furthermore, the particular conditions of export of dairy products may render obtaining such proofs even more difficult and burdensome.

(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 423/2006 of 13 March 2006 derogating from Regulation (EC) No 800/1999 as regards proof that customs formalities for importation of milk and milk products in third countries have been completed[4] as provided for in Article 16 of Regulation (EC) No 800/1999, provides for a transitional period during which the proof that customs formalities for importation have been completed is made easier. That period expired on 31 December 2006.

(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 that reason, it is necessary to continue to provide for a transitional regime.

(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,

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) of Regulation (EC) No 800/1999, the product shall be deemed to have been imported into a third country on presentation of a copy of the transport document and one of the documents listed in Article 16(2) of Regulation (EC) No 800/1999.

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 of this Article.

Article 2

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

It shall apply to export declarations accepted as from 1 January 2007 until 31 December 2007.

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