Commission Regulation (EC) No 2124/2005 of 22 December 2005 laying down derogations from Regulation (EC) No 800/1999 as regards products in the form of goods not covered by Annex I to the Treaty exported to third countries other than Romania

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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 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products[(1)], and in particular Article 8(3) thereof,

Whereas:

(1) Article 4 of Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds[(2)] provides that 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)] shall apply as regards exports of products in the form of goods not covered by Annex I to the Treaty.

(2) Article 3 of Regulation (EC) No 800/1999, provides that entitlement to the export refund is acquired on importation into a specific third country when a differentiated refund applies for that third country. Articles 14, 15 and 16 of that Regulation lay down the conditions for the payment of the differentiated refund, in particular the documents to be supplied as proof of the goods' arrival at destination.

(3) In the case of a differentiated refund, Article 18(1) and (2) of Regulation (EC) No 800/1999 provides that part of the refund, calculated using the lowest refund rate, is paid on application by the exporter once proof is furnished that the product has left the customs territory of the Community.

(4) EU-Romania Association Council Decision No 3/2005 of 5 July 2005 concerning the improvement of the trade arrangements for processed agricultural products provided in Protocol 3 of the Europe Agreement[(4)] provides for the abolition of refunds on processed agricultural products not listed in Annex I to the Treaty when exported to Romania, from 1 December 2005.

Changes to legislation: *Commission Regulation (EC) No 2124/2005 is up to date with all changes known to be in force on or before 25 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) Romania has undertaken to grant the preferential import arrangements to goods imported into its territory only if the goods concerned are accompanied by documents stating that they are not eligible for payment of export refunds.

(6) In the light of those arrangements, as a transitory measure in view of the possible accession of Romania to the European Union and in order to avoid the imposition of unnecessary costs on operators in their commercial trade with other third countries, it is appropriate to derogate from Regulation (EC) No 800/1999 in so far as it requires proof of import in the case of differentiated refunds. It is also appropriate, where no export refunds have been fixed for the particular countries of destination in question, not to take account of that fact when the lowest rate of refund is determined.

(7) Since the measures laid down in EU-Romania Association Council Decision No 3/2005 will apply as from 1 December 2005 this Regulation should enter into force on the day following that of its publication.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee on horizontal questions concerning trade in processed agricultural products not listed in Annex I to the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

By way of derogation from Article 16 of Regulation (EC) No 800/1999, where the differentiation of the refund is the result solely of a refund not having been fixed for Romania proof that the customs import formalities have been completed shall not be a condition for payment of the refund in respect of all goods listed in Annex II to Regulation (EC) No 1043/2005, which are covered by EU-Romania Association Council Decision No 3/2005.

Article 2

The fact that no export refund has been fixed in respect of the export to Romania of the goods listed in Annex II to Regulation (EC) No 1043/2005, which are covered by EU-Romania Association Council Decision No 3/2005, shall not be taken into account in determining the lowest rate of refund within the meaning of Article 18(2) of Regulation (EC) No 800/1999.

Article 3

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

It shall apply from 1 December 2005.

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