Commission Regulation (EC) No 1454/2004 of 16 August 2004 amending Regulation (EC) No 2090/2002 laying down detailed rules for applying Council Regulation (EEC) No 386/90 as regards physical checks carried out when agricultural products qualifying for refunds are exported

COMMISSION REGULATION (EC) No 1454/2004

of 16 August 2004

amending Regulation (EC) No 2090/2002 laying down detailed rules for applying Council Regulation (EEC) No 386/90 as regards physical checks carried out when agricultural products qualifying for refunds are exported

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 386/90 of 12 February 1990 on the monitoring carried out at the time of export of agricultural products receiving refunds or other amounts[(1)], and in particular Article 6 thereof,

Whereas:

(1) Article 10(2) of Commission Regulation (EC) No 2090/2002[(2)] requires Member States to execute a number of substitution checks each calendar year, which shall not be less than the number of days on which export refund products leave the Community's customs territory. It should be clarified that the number of substitution checks should not be less than the number of days or half the number of days on which consignments of export refund products, not sealed according to the first subparagraph of Article 10(2), leave the Community's customs territory through the customs office of exit concerned.

(2) Article 11 of Commission Regulation (EC) No 2090/2002 requires Member States to submit annual evaluations on the implementation and effectiveness of the checks carried out under that Regulation and the procedures applied to selecting the goods subject to physical checks.

(3) Article 26(7) 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)] also requires Member States to submit annual evaluations on the implementation and effectiveness of the checks carried out under Regulation (EC) No 2090/2002 on payment declarations.

(4) The elements of those annual reports should be set out more in detail in order to ensure transparency and to enable a common evaluation.

(5) Those annual reports should be drawn up on this basis from the 2005 report covering the year 2004. As Member States may need organisational adaptations for gathering information on the requested value of refunds, they may choose to report such information from the 2006 report covering the year 2005.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1454/2004. (See end of Document for details)*

(6) The Management Committees concerned have not delivered an opinion within the time limit set by their chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2090/2002 is amended as follows:

1. in Article 10 (2), the second and third subparagraphs are replaced by the following:

> The number of substitution checks carried out each calendar year shall not be less than the number of days on which consignments of export refund products, not sealed according to the first subparagraph, leave the Community's customs territory through the customs office of exit concerned.
>
> Where only one exporter is subject to the substitution check, that number may not be less than half the number of days on which consignments of export refund products, not sealed according to the first subparagraph, leave the Community's customs territory through the customs office of exit concerned.;

2. Article 11 is replaced by the following:

Article 11

> Before 1 May each year, the Member States shall send to the Commission a report evaluating the implementation and effectiveness of the checks carried out under this Regulation and the procedures applied to selecting the goods subject to physical checks. The report shall include the elements listed in Annex III covering export declarations accepted between 1 January and 31 December of the preceding year.
>
> The reports shall be submitted on an ISO 9660 compatible CD-ROM or equivalent electronic data medium and on paper.
>
> For the 2005 annual report covering declarations accepted in 2004, Member States may choose not to report:
>
> — the financial incidence of irregularities between EUR 200 and EUR 4 000 under point 1.5, 2.5 and 10.3 of Annex III,
>
> — the information requested under point 1.7 of Annex III.;

3. the text in the Annex to this Regulation is added as Annex III.

Article 2

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

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

Done at Brussels, 16 August 2004.

For the Commission

Franz FISCHLER

Member of the Commission

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1454/2004. (See end of Document for details)*

ANNEX

ANNEX III

ELEMENTS OF THE ANNUAL REPORT PURSUANT TO ARTICLE 11

1. Execution of checks at the customs offices of export

1.1. The number of export declarations per sector per customs office not excluded under Article 2 when calculating the minimum rate of checks.

1.2. Indication whether declarations were excluded under Article 2(2)(a) or under Article 2(2)(b).

1.3. The number of physical checks carried out per sector per customs office.

1.4. If applicable, a list of customs offices applying reduced rates of checks pursuant to Article 6(c).

1.5. The number of checks by sector which led to the detection of irregularities, the financial incidence of irregularities detected exceeding a refund value of EUR 200 including, where applicable, the reference number used for the communication referred to in Article 3 of Council Regulation (EEC) No 595/91[(4)].

1.6. If applicable, the updating of the number of irregularities which were communicated to the Commission in the preceding annual reports.

1.7. The requested value of refunds per sector of declarations subjected to physical checks.

2. Execution of substitution checks at the customs offices of exit

2.1. The number of days per customs office of exit on which consignments of export refund products, not sealed according to the first subparagraph of Article 10(2), have left the customs territory of the Community through the particular customs office of exit.

2.2. The number of substitution checks referred to in Article 10(2) carried out per customs office of exit.

2.3. The number of export declarations for which the customs office of export has not sealed the means of transport or the packaging.

The number of export declarations for which the seals affixed on departure have been removed other than under customs supervision, or the seals have been broken or the dispensation from sealing under Article 357(4) of Regulation (EEC) No 2454/93 has not been granted.

2.4. The number of specific substitution checks referred to in Article 10(2a) of this Regulation executed per customs office.

2.5. The number of substitution checks referred to in Article 10(2) of this Regulation which led to the detection of irregularities, the financial incidence of irregularities detected exceeding a refund value of EUR 200, including, where applicable, the reference number which is used for communication referred to in Article 3 of Regulation (EEC) No 595/91.

The number of specific substitution checks referred to in Article 10(2a) of this Regulation which led to the detection of irregularities, the financial incidence of irregularities detected exceeding