COMMISSION REGULATION (EC) No 519/2004
of 19 March 2004
derogating from Regulation (EC) No 800/1999 as regards exports of milk and milk products

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) and (14) 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 to that rule are possible provided that conditions are laid down offering equivalent guarantees.

(2) In the case of differentiated export refunds, Article 18(1) 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 [2] stipulates that part of the refund, calculated using the lowest rate for the refund, is to be paid on application by the exporter once proof is furnished that the product has left the customs territory of the Community.

(3) Commission Regulation (EEC) No 776/78 of 18 April 1978 on the application of the lowest rate of refund on exports of dairy products and repealing and amending certain Regulations [3] provides for exceptions for the purpose of determining the lowest rate of refund. Article 1 of that Regulation was based on measures taken in the context of special arrangements for the export of certain cheeses to Switzerland, in accordance with Commission Regulation (EEC) No 1953/82 of 6 July 1982 laying down special conditions for the export of certain cheeses to certain third countries [4]. Since then, those special arrangements have been repealed by Commission Regulation (EC) No 823/96 and the refunds for cheeses exported to several other destinations have been fixed at zero, so that Article 1 of Regulation (EEC) No 776/78 no longer has any purpose.

(4) In the case of exports to the United States, there are cases where no refund is fixed for certain milk products. Article 2 of Regulation (EEC) No 776/78 provided for an exception for determining the lowest rate of the refund, since at that time the measures in force in the United States guaranteed that Community products which had benefited from a refund for other destinations could not be imported into the United States. However, although initially imports from the Community outside a quota were not accepted into the United States, following the conclusion of the GATT Agriculture Agreement in 1995 it became possible for milk products to be imported into the United States under expanded quotas and over and above the quotas. Since the guarantees needed to prevent Community exports benefiting from refunds from entering the United States no longer exist, and since the statistics show that exports of certain milk products falling within CN codes 0401, 0402, 0403, 0404 and 0405 from the Community to the United States are lower than the quantities of the same products from the Community imported into the United States for consumption, Article 2 of Regulation (EEC) No 776/78 is no longer relevant.

(5) Regulation (EEC) No 776/78 should therefore be repealed.

(6) As a consequence of that repeal, account should be taken of the fact that no refund is fixed for the products concerned exported to the United States for the purposes of Article 18(2) of Regulation (EC) No 800/1999, that no part of the refund is paid once the product has left the Community's customs territory and that payment of the refund is subject to the additional requirements set out in Articles 15 and 16 of that Regulation.

(7) Since subjecting the payment of refunds to the requirements of Article 15 and 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.

[1] OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).
[2] OJ L 102, 17.4.1999, p. 11. Regulation as last amended by Regulation (EC) No 2010/2003 (OJ L 297, 15.11.2003, p. 13).
[3] OJ L 105, 19.4.1978, p. 5. Regulation as last amended by Regulation (EC) No 2931/95 (OJ L 307, 20.12.1995, p. 10).
[4] OJ L 212, 21.7.1982, p. 5. Regulation as last amended by Regulation (EC) No 3337/94 and repealed by Regulation (EC) No 823/96 (OJ L 111 of 4.5.1996, p. 9).