# COMMISSION REGULATION (EC) No 2083/2003

## of 27 November 2003

## 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 Malta

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], as last amended by Regulation (EC) No 2580/2000 [2], and in particular Article 8(3) thereof,

Whereas:

(1) Article 16(1) of Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common detailed rules for the application of 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 [3], as last amended by Regulation (EC) No 740/2003 [4], 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 [5], as last amended by Regulation (EC) No 2010/2003 [6], 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) Council Regulation (EC) No 1890/2003 of 27 October 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Malta and the exportation of certain processed agricultural products to Malta [7] provides, on an autonomous basis, for the abolition of refunds on processed agricultural products not listed in Annex I to the Treaty when exported to Malta, from 1 November 2003.

(5) Malta has undertaken to grant the preferential import arrangements to goods imported into their territories 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 these arrangements, as a transitory measure pending the accession to the European Union of Malta 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) 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, read in conjunction with Article 16(1) of Regulation (EC) No 1520/2000, where the differentiation of the refund is the result solely of a refund not having been fixed for Malta, in respect of exports to other third countries, 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 B to Regulation (EC) No 1520/2000, which are covered by the arrangements for Malta.

[1] OJ L 318, 20.12.1993, p. 18.
[2] OJ L 298, 25.11.2000, p. 5.
[3] OJ L 177, 15.7.2000, p. 1.
[4] OJ L 106, 29.4.2003, p. 12.
[5] OJ L 102, 17.4.1999, p. 11.
[6] OJ L 297, 15.11.2003, p. 13.
[7] OJ L 278, 29.10.2003, p. 1.