COMMISSION REGULATION (EC) No 1431/2003

of 11 August 2003

amending Regulation (EC) No 1501/95 as regards the conditions for the payment of export refunds on cereal products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals [1], as last amended by Regulation (EC) No 1104/2003 [2], and in particular Article 13(11) thereof,

Whereas:

(1) The second indent of Article 3 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], as last amended by Regulation (EC) No 444/2003 [4], stipulates that, when a differentiated refund applies for a specific third country, entitlement to the refund is acquired on importation into that third country. Articles 14, 15 and 16 of that Regulation lay down the conditions for the payment of the refund when a differentiated refund applies and in particular the documents to be presented to prove the arrival of the products at destination.

(2) When a differentiated refund applies, Article 18(1) and (2) of Regulation (EC) No 800/1999 stipulates 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.

(3) Article 13a of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals [5], as last amended by Regulation (EC) No 1163/2002 [6], provides for derogations from Regulation (EC) No 800/1999 as a result of trade agreements concluded with Bulgaria, the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Romania, Slovenia and Slovakia, providing for the abolition of refunds for those destinations.

(4) Commission Regulation (EC) No 934/2003 [7] opens an invitation to tender for the refund on common wheat exports to all third countries, except for the 10 countries acceding to the Community on 1 May 2004, and Bulgaria and Romania, so requiring the refund rate to be differentiated, depending on the destination. Those destinations are also excluded when the export refunds are fixed at regular intervals. As there is no trade agreement with Cyprus or Malta and these countries are not therefore listed among the destinations referred to in Article 13a of Regulation (EC) No 1501/95, the derogation regarding proof of arrival at destination and calculation of the amount of the advance provided for in that Article does not apply to the invitation to tender opened by Regulation (EC) No 934/2003, nor to the fixing of export refunds at regular intervals.

(5) Based on the statistical data available, there are no exports of Community cereal products to Cyprus or Malta. So as not to hamper most Community exports by requiring proof of arrival at destination, the scope of the derogations provided for in Article 13a of Regulation (EC) No 1501/95 should be extended to cases where a refund is not fixed for those two destinations.

(6) Regulation (EC) No 1501/95 should therefore be amended.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The following paragraph 3 is hereby added to Article 13a of Regulation (EC) No 1501/95:

'3. The derogations laid down in paragraphs 1 and 2 shall also apply where refunds are not fixed for exports of the products referred to in Article 1(1) of Regulation (EEC) No 1766/92 to Cyprus or Malta.'

Article 2

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

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 158, 27.6.2003, p. 1.
[3] OJ L 102, 17.4.1999, p. 11.
[4] OJ L 67, 12.3.2003, p. 3.
[5] OJ L 147, 30.6.1995, p. 7.
[6] OJ L 170, 29.6.2002, p. 46.
[7] OJ L 133, 29.5.2003, p. 42.