COMMISSION REGULATION (EC) No 1368/2002

of 26 July 2002

amending Regulation (EC) No 174/1999 laying down special detailed rules for the application of Council Regulation (EEC) No 804/68 as regards export licences and export refunds in the case 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]), as last amended by Commission Regulation (EC) No 509/2002 ([2]), and in particular Article 26(3) and Article 31(14) thereof,

Whereas:

(1) Commission Regulation (EC) No 174/1999 ([3]), as last amended by Regulation (EC) No 1166/2002 ([4]), lays down special detailed rules for applying Council Regulation (EEC) No 804/68 ([5]), as last amended by Regulation (EC) No 1587/96 ([6]), as regards export licences and export refunds in the case of milk and milk products. In order to ensure that the export refund arrangements are properly managed and reduce the risk of speculative applications and disruption to the arrangements for certain milk products, there is a need to depart from Article 35(3) of Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ([7]), as last amended by Regulation (EC) No 2299/2001 ([8]), which limits the portion of the security to be forfeit where the trader returns the licence before the end of the validity period.

(2) Council Regulation (EC) No 1151/2002 of 27 June 2002 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Estonia ([9]) introduces concessions in the form of reciprocal tariff quotas involving the abolition of Community refunds on certain milk products. Similar concessions have been agreed with Latvia and Lithuania. Refunds on the products concerned were consequently abolished in the case of the three Baltic countries as from 4 July 2002. In order to avoid disrupting trade with these countries and guarantee that only products which have not benefited from refunds are exported to them, specific arrangements for the issue of licences to these countries should be drawn up as soon as possible. To that end, the provisions applicable to Poland by virtue of Article 20b of Regulation (EC) No 174/1999 should also apply to the countries and products concerned.

(3) Article 6 of Regulation (EC) No 174/1999 lays down the validity period of export licences. Article 18(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 ([10]), as last amended by Regulation (EC) No 1253/2002 ([11]), establishes the rate of refund to be paid in cases where the destination indicated on the licence has not been complied with. In order to comply with the concessions granted, the necessary steps should be taken to prevent licences issued for other third countries from being used to export to those countries to which concessions have been granted, and to allow licences to be cancelled and the securities lodged to be released.

(4) Regulation (EC) No 174/1999 should therefore be amended accordingly.

(5) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 174/1999 is amended as follows:

1. In Article 9 the following fourth subparagraph is added:

'As an exception to Regulation (EC) No 1291/2000, Article 35(3) of the said Regulation shall not apply to licences issued in accordance with this Regulation.'

([1]) OJ L 160, 26.6.1999, p. 48.
([2]) OJ L 79, 22.3.2002, p. 15.
([3]) OJ L 20, 27.1.1999, p. 8.
([4]) OJ L 170, 29.6.2002, p. 51.
([5]) OJ L 148, 28.6.1968, p. 13.
([6]) OJ L 206, 16.8.1996, p. 21.
([7]) OJ L 152, 24.6.2000, p. 1.
([8]) OJ L 308, 27.11.2001, p. 19.
([9]) OJ L 170, 29.6.2002, p. 15.
([10]) OJ L 102, 17.4.1999, p. 11.
([11]) OJ L 183, 12.7.2002, p. 12.

2. Article 20b is replaced by the following:

'*Article 20b*

1. Paragraphs 1 to 11 shall apply to exports of the products listed in Annex VIII to the destinations listed therein.

2. Exports as referred to in paragraph 1 shall be subject to the presentation to the competent authorities of the countries listed in Annex VIII of a certified copy of the export licence, issued in accordance with this Article, and a duly endorsed copy of the export declaration for each consignment. The goods shall not have been exported previously to another third country.

3. Licence applications and licences shall contain the following entries:

(a) In Box 7, the country of destination;

(b) In Box 15, a description of the goods in accordance with the Combined Nomenclature;

(c) In Box 16, the eight-figure CN code and the quantity in kilograms for each of the products referred to in Box 15;

(d) In Boxes 17 and 18, the total quantity of the products referred to in Box 16;

(e) In Box 20, one of the following:

— Exportación en virtud del artículo 20 *ter* del Reglamento (CE) nº 174/1999

— Udførsel i overensstemmelse med artikel 20b i forordning (EF) nr. 174/1999

— Ausfuhr in Übereinstimmung mit Artikel 20b der Verordnung (EG) Nr. 174/1999

— Εξαγωγή σύμφωνα με το άρθρο 20β του κανονισμού (ΕΚ) αριθ. 174/1999

— Export in accordance with Article 20b of Regulation (EC) No 174/1999

— Exportation au titre de l'article 20 *ter* du règlement (CE) nº 174/1999

— Esportazione in conformità all'articolo 20 ter del regolamento (CE) n. 174/1999

— Uitvoer op grond van artikel 20 ter van Verordening (EG) nr. 174/1999

— Exportação conforme o artigo 20.ºB do Regulamento (CE) n.º 174/1999

— Asetuksen (EY) N:o 174/1999 20 b artiklan mukainen vienti

— Export i överensstämmelse med artikel 20b i förordning (EG) nr 174/1999;

(f) In Box 22, one of the following:

— Sin restitución por exportación

— Uden eksportrestitution

— Ohne Ausfuhrerstattung

— Χωρίς επιστροφή κατά την εξαγωγή

— No export refund

— Sans restitution à l'exportation

— Senza restituzione all'esportazione

— Zonder uitvoerrestitutie

— Sem restituição à exportação

— Ilman vientitukea

— Utan exportbidrag;

(g) Licences shall be valid only for the products and quantities thus specified.

4. Licences issued under this Article shall carry with them an obligation to export to the destination indicated in Box 7.

5. At the request of the party concerned, a certified copy of the endorsed licence shall be issued.

6. Issue of licences shall not be subject to the lodging of a security.

7. As an exception to Article 9 of Regulation (EC) No 1291/2000, licences shall not be transferable.

8. Licences shall be valid from their date of issue within the meaning of Article 23(1) of Regulation (EC) No 1291/2000 until the following 30 June.

9. Before the end of February, the competent authorities of the Member States shall notify the Commission of the number of licences issued for the previous year and the quantity of products concerned, broken down by Combined Nomenclature code.

10. Chapter I shall not apply.

11. As an exception to Article 18(3) of Regulation (EC) No 800/1999, no refund shall be paid for licences used from the date of entry into force of this Regulation for exports of the products listed in Annex VIII to the destinations listed in Annex VIII which give in Box 7 a destination other than those listed in the said Annex.'

3. The Annex to this Regulation shall be added as Annex VIII.

Article 2

Where they are issued before the date of entry into force of this Regulation and their validity period expires after 30 June 2002, licences for one of the products listed in Annex VIII to Regulation (EC) No 174/1999 which indicate in Box 7 one of the destinations listed in that Annex shall be cancelled at the request of the interested party, and the relevant securities shall be released in proportion to the quantities not used.

Article 3

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