

COUNCIL REGULATION (EEC) No 1188/81

of 28 April 1981

laying down general rules for granting refunds adjusted in the case of cereals exported in the form of certain spirituous beverages and the criteria for fixing the amount of such refunds and amending Regulation (EEC) No 3035/80 concerning certain products not covered by Annex II to the Treaty

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 1187/81⁽²⁾, and in particular Article 16 (4a) and (5) thereof,

Having regard to the proposal from the Commission,

Whereas Article 16 (4a) of Regulation (EEC) No 2727/75 provides that, to the extent necessary to take account of the characteristics of the processing of certain spirituous beverages obtained from cereals, the criteria for the grant of export refunds may be adjusted to this particular situation; whereas it would appear necessary to provide for such adjustment for certain spirituous beverages for which, on the one hand, the price of cereals at the moment of export is not linked to the price of cereals at the moment of processing and, on the other hand, since the final product results from a mixture of numerous products, it has become impossible to detect the cereals incorporated in the final product to be exported, all the more so since they are also subject to compulsory ageing of at least three years;

Whereas difficulties of this nature have been encountered in particular for Scotch whisky and Irish whiskey;

Whereas the usual system of refunds should, as far as possible, be applied on a similar basis; whereas therefore a refund should be paid to cereals fulfilling the conditions provided for in Article 9 (2) of the Treaty and used *pro rata* in terms of the quantities of spirituous beverages to be exported; whereas, to this end, the quantities of such cereals placed under control should be made subject to an overall, flat-rate quota, calculated on the basis of national statistics supplied by the Member States concerned; whereas use of the relationship which exists between the total quantities of spirituous beverages concerned which have been

exported and the total quantities which have been sold seems to afford a fair and simple basis; whereas for determining the quantities of cereals placed under control and the coefficient, the quantities having been subject to inward processing arrangements are to be excluded;

Whereas, in order to take account of the fact that the quota does not reflect foreseeable export trends, provision should be made for it to be adjusted; whereas it is also necessary to make provision for the quota to be adjusted in particular to guard against the possibility of payments of the refunds serving also to increase stocks abnormally;

Whereas Article 16 (2) of Regulation (EEC) No 2727/75 provides for the possibility of differentiating the refund according to destination; whereas, therefore, objective criteria should be provided for which would lead to the abolition of the refund for certain destinations;

Whereas, in order to establish the quota, an obligation should be provided for to provide certain proof with regard to the export of the quantities of spirituous beverages; whereas it is appropriate to provide that, in the case of goods returning to Community territory, the provisions of Article 2 of Regulation (EEC) No 754/76⁽³⁾ should apply if the special conditions are fulfilled;

Whereas, since 1 August 1973 and until 30 June 1981, cereals fulfilling the conditions provided for in Article 9 (2) of the Treaty have been placed under control and used for the manufacture of spirituous beverages for export; whereas appropriate measures should therefore be applied to meet this situation;

Whereas, following the extension of the scope of export refunds in this sector, it would appear appropriate to make certain consequential amendments to Council Regulation (EEC) No 3035/80 of 11 November 1980 laying down general rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and the criteria for fixing the amount of such refunds⁽⁴⁾,

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ See page 1 of this Official Journal.

⁽³⁾ OJ No L 89, 2. 4. 1976, p. 1.

⁽⁴⁾ OJ No L 323, 29. 11. 1980, p. 27.

HAS ADOPTED THIS REGULATION :

Article 1

1. This Regulation lays down the general rules for the fixing and granting of export refunds for cereals exported in the form of spirituous beverages referred to in Article 16 (4a) of Regulation (EEC) No 2727/75 and for which a maturing period of at least three years is one part in the compulsory manufacturing process.

2. Without prejudice to Article 4 (1), Regulation (EEC) No 3035/80 shall not apply to the spirituous beverages referred to in paragraph 1 above.

Article 2

The refunds referred to in Article 1 may be granted for cereals fulfilling the conditions laid down in Article 9 (2) of the Treaty and used in the production of the spirituous beverages coming under subheading 22.09 C III b) of the Common Customs Tariff such as :

- Scotch whisky — as defined in the United Kingdom Finance Act 1969, as amended by the United Kingdom Finance Act 1980,
- Irish whiskey — as defined in the Irish Whiskey Act 1980 and in the United Kingdom Finance Act 1969, as amended by the United Kingdom Finance Act 1980.

Article 3

1. The quantities eligible for the refund shall be the quantities of cereals placed under control by those entitled to the refund, weighted by a coefficient to be fixed annually for each Member State concerned and applicable to each person entitled to the refund; this coefficient shall express the ratio which exists, for the spirituous beverages concerned, between the total export quantities of the spirituous beverages concerned and the total quantities released to the market.

For determining the quantities of cereals placed under control and the coefficient, the quantities having been subject to inward processing arrangements shall be excluded.

2. The coefficient referred to in the previous paragraph shall be adjusted where :

- significant changes occur in the proportion of the cereals referred to in Article 2 and those used in relation to the proportion of cereals used under inward processing arrangements,
- foreseeable export trends in one of the Member States concerned show a tendency to change significantly,
- stocks of one of the spirituous beverages in question vary inordinately in one of the Member States concerned.

3. The coefficient may differ according to the cereal used.

4. The competent bodies shall at regular intervals check on the volume actually exported and on the volume of stocks and monitor trends in these volumes.

5. Cereals which are to be used for the manufacture of the spirituous beverages referred to in Article 2 shall be regarded as 'placed under control' when placed under customs control or under an administrative control providing equivalent guarantees.

Article 4

1. The rate of the refund applicable shall be that fixed in accordance with Article 4 of Regulation (EEC) No 3035/80.

2. The rate of the refund shall be that applicable on the day on which the cereals are placed under control.

Article 5

Where the situation on the world market or certain specific market requirements dictate, the refund may be abolished for certain destinations.

Article 6

1. Only operators established in the Community should be entitled to the refund.

2. The refund shall be paid when proof is provided that the cereals have been placed under control and have been distilled.

3. On application by the party concerned, an amount equal to the refund shall be paid as soon as the cereals are placed under control. In that case, payment shall be subject to provision of a security. The security shall be released when proof is provided that the cereals have been distilled.

Article 7

For the purposes of this Regulation, cereals may be replaced by malt.

In that case the malt shall be converted into cereals by means of coefficients.

Article 8

1. For the purposes of Article 3, proof shall be provided that the quantities of spirituous beverages which fulfil the conditions laid down in Article 9 (2) of the Treaty have been exported.

Where Article 5 applies, proof must also be provided that the spirituous beverages concerned have reached the destination for which the refund was fixed.

2. Where the Community transit procedure applies, the beverages referred to in paragraph 1 shall be placed under the Community external transit procedure.

3. Within the meaning of Regulation (EEC) No 754/76, the spirituous beverages referred to in paragraph 1 shall be deemed to comply with the customs export formalities required for the granting of the export refunds. These beverages may not be placed in free circulation unless an amount corresponding to the refund paid, plus an additional amount, is reimbursed or unless the import charge on products from third countries is paid.

Article 9

1. At the request of the person concerned, cereals placed under control between 1 August 1973 and the date of entry into application of this Regulation may benefit under this Regulation.

2. Payment of the refund shall be effected in instalments.

Article 10

Article 4 (4) of Regulation (EEC) No 3035/80 shall be amended as follows:

'4. Except in the case of cereals, no refund shall be granted for products used in the manufacture of alcohol contained in the spirituous beverages referred to in Annex B falling within subheading 22.09 C of the Common Customs Tariff.'

Article 11

In Annex B to Regulation (EEC) No 3035/80 the text relating to heading No 22.09 shall be replaced by the following:

CCT heading No	Description	Agricultural products for which an export refund can be granted					
		Cereals	Rice	Eggs	Sugar or molasses	Isoglucose	Milk and milk products
		1	2	3	4	5	6
22.09	Spirits (other than those of heading No 22.08); liqueurs and other spirituous beverages; compound alcoholic preparations (known as 'concentrated extracts') for the manufacture of beverages: C. Spirituous beverages: II. Gin ex III. Whisky (other than Bourbon and the whiskies referred to in Regulation (EEC) No 1187/81) ex IV. Vodka with an alcoholic strength of 45.4 % or less V. Other						
		x					
		x					
		x					
		x		x	x	x	x

Article 12

The rules for implementing this Regulation and any adjustments necessary, flowing from Article 9 (1), shall be adopted according to the procedure laid down in Article 26 of Regulation (EEC) No 2727/75.

Article 13

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

It shall apply from 1 July 1981.

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

Done at Luxembourg, 28 April 1981.

For the Council

The President

J. de KONING
