

**COMMISSION REGULATION (EC) No 456/2003
of 12 March 2003**

laying down special rules on the prefinancing of export refunds for certain beef and veal products placed under a customs-warehousing or free-zone procedure

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, as last amended by Commission Regulation (EC) No 2345/2001 ⁽²⁾, and in particular Article 33(12) thereof,

Whereas:

- (1) Chapter 3 of Title II 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 253/2002 ⁽⁴⁾, lays down the rules for advance payment of the refund for products and goods placed under a customs-warehousing or free-zone procedure.
- (2) Taking account of the conditions for the production of certain cuts of boned beef and veal and for placing them in storage, thus making them eligible under the arrangements for the advance payment of the refund, and also of the way in which those products are exported, the control provisions laid down in Article 27 of Regulation (EC) No 800/1999 should be supplemented with specific provisions. Those additional provisions concern, in particular, the creation of a computerised database by those operators who wish to participate in these arrangements, approved by the customs authorities responsible for control and to which the latter must have direct access.
- (3) A derogation should be made for some beef and veal products from the maximum period for which products may remain under a customs-warehousing or free-zone procedure provided for in Article 29(5) of Regulation (EC) No 800/1999. In order for these arrangements to function, in view of the special conditions prevailing in the beef and veal sector, that period should be four months.
- (4) In order to make operations more transparent and checks quicker and more effective, the number of operations to be subject to either phase of the procedure should be restricted.
- (5) In order to ensure the smooth operation of these arrangements, the control criteria and frequency and the consequences to be drawn where a discrepancy is

detected between the actual stocks and the database should be laid down. In addition, a derogation should be made from Article 26(7) of Regulation (EC) No 800/1999.

- (6) The Management Committee for Beef and Veal has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

Without prejudice to Regulation (EC) No 800/1999, for products falling within codes 0201 30 00 9100 and 0201 30 00 9120 of the agricultural product nomenclature for export refunds introduced by Commission Regulation (EEC) No 3846/87 ⁽⁵⁾ placed under a customs-warehousing or free-zone procedure, the prefinancing of export refunds shall be subject to the rules set out in this Regulation.

Article 2

1. Eligibility for prefinancing of the refund for the products referred to in Article 1 under the storage scheme shall be conditional on the issue of written authorisation by the customs authority responsible for the management and control of the scheme.

2. The authorisation referred to in paragraph 1 shall be issued only to operators giving a written undertaking to maintain a computerised database of products to be placed under the prefinancing arrangements (hereinafter called 'the database'). Where the products are stored in several places, authorisation may be granted for a database for each warehouse.

Where all or part of the goods are stored by a third party acting on behalf of the operator, the database may be maintained by that third party on the responsibility of the operator, who shall be answerable for its accuracy.

The competent customs authorities shall make prior checks to ensure that the database, to which they must have direct access without any need for prior notification, has been set up and is operational. The authorisation referred to in paragraph 1 shall lay down the procedure for accessing the database.

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.

⁽²⁾ OJ L 315, 1.12.2001, p. 29.

⁽³⁾ OJ L 102, 17.4.1999, p. 11.

⁽⁴⁾ OJ L 183, 12.7.2002, p. 12.

⁽⁵⁾ OJ L 366, 24.12.1987, p. 1.

Article 3

The database must:

- (a) permit the meat covered by the arrangements to be traced administratively throughout the period of storage;
- (b) provide an up-to-date report in real time of the quantities of meat in storage, which must be available on the basis of each of the criteria referred to in the third subparagraph.

Traceability as referred to at (a) above shall be based on a unique identification reference assigned to meat from one boning operation carried out before the products concerned are placed under the prefinancing arrangements. One boning operation means the meat boned on a single day or part of a day.

The unique identification reference referred to in the second subparagraph shall comprise:

- a unique number,
- the date of production of the boned meat,
- the number of the boned meat certificate referred to in Article 4 of Commission Regulation (EEC) No 1964/82 ⁽¹⁾,
- the number of boxes per type of cut obtained and the net weight before freezing.

Article 4

1. The database shall be kept up-to-date and shall indicate the entry into and the removal from storage of products up to the day of presentation of:

- (a) the payment declaration referred to in Article 26(1) of Regulation (EC) No 800/1999;
- (b) the export declaration referred to in Article 32 of Regulation (EC) No 800/1999.

2. Storage in a Member State other than the one in which the payment declaration is accepted must be indicated in the database. Operators intending to use such storage arrangements shall inform the customs authorities thereof. Those authorities shall approve, *inter alia*, the procedure for tracking the products concerned in the database.

Article 5

The customs authorities shall accept the declarations referred to in Article 4 only after verifying that the operation for which the declaration has been issued is entered in the database as an 'entry' or a 'removal'.

However, the customs authority may accept declarations as referred to in Article 4 before making the check referred to in the first paragraph. In such cases, the operator must confirm to the authorities that the relevant entry has been made in the

database. The customs authorities may thus postpone and group these checks but must carry them out at least once in each period of two calendar months.

Article 6

Where Article 30 of Regulation (EC) No 800/1999 is applied, acceptance by the authority of the Member State of storage of the control copy T5 and the export declaration shall be subject to confirmation by the exporter that the relevant entry has been made in the database.

In such cases, the customs authority of the Member State in which the payment declaration has been accepted shall satisfy itself, in accordance with the second paragraph of Article 5, that the database mentions the operation.

Article 7

A maximum of two payment declarations may be accepted for each boning operation. A payment declaration may refer to a maximum of two boned meat certificates as referred to in Article 4 of Regulation (EEC) No 1964/82.

Article 8

Notwithstanding Article 29(5) of Regulation (EC) No 800/1999, products may remain under a customs-warehousing or free-zone procedure for four months from the date of acceptance of the payment declaration.

Article 9

1. The customs authorities shall carry out at least two unannounced checks per calendar year on the operation and content of the database.

Checks shall cover a total of at least 5 % of the total quantities of products that, according to the database, are in storage on the day checks begin. These checks shall ensure that the meat located in the storage premises is entered in the database and that, conversely, the meat entered in the database can be identified in the storage premises.

A report shall be drawn up for each check.

Where the sample of products to be checked includes meat stored in warehouses in other Member States, the customs authorities shall use the mutual-assistance arrangements referred to in Article 4(1) of Council Regulation (EC) No 515/97 ⁽²⁾.

2. The customs authorities shall inform the agency responsible for paying the export refund of:

- (a) all authorisations issued or withdrawn;
- (b) all checks carried out.

⁽¹⁾ OJ L 212, 21.7.1982, p. 48.

⁽²⁾ OJ L 82, 22.3.1997, p. 1.

Where there is presumed to be a risk of an irregularity, paying agencies may request the customs authorities to carry out a check.

3. Article 26(7) of Regulation (EC) No 800/1999 shall not apply to products subject to the checks provided for in this Regulation.

Article 10

Where the customs authorities find a discrepancy between the physical stock and the stock recorded in the database or that Article 4(2) has been infringed, the authorisation referred to in Article 2(1) shall be withdrawn for a period to be determined by the Member States, which may not be less than three months from the date on which the problem is detected.

Authorisation shall not be withdrawn where the infringement of Article 4(2) or the discrepancy between the physical stock and the stock registered in the database is the result of *force majeure*.

Authorisation shall also not be withdrawn where the quantities missing or not entered in the database are less than 1 % of the total weight of products selected for the check and are due to omissions or simple administrative errors, provided that corrective measures are taken to ensure that similar errors do not recur. If they recur, the customs authorities may then withdraw authorisation.

Article 11

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

It shall apply to payment declarations accepted from 1 October 2003.

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

Done at Brussels, 12 March 2003.

For the Commission
Franz FISCHLER
Member of the Commission
