

Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (repealed)

PART III

TRADE WITH THIRD COUNTRIES

CHAPTER III

Exports

Section I

Export licences

Article 161

Export licences

1 Without prejudice to cases where export licences are required in accordance with this Regulation, the Commission may make exports of one or more products of the following sectors from the Community subject to presentation of an export licence:

- a cereals;
- b rice;
- c sugar;
- d olive oil and table olives, with regard to olive oil referred to in point (a) of Part VII of Annex I;
- e beef and veal;
- f milk and milk products;
- g pigmeat;
- h sheepmeat and goatmeat;
- i eggs;
- j poultrymeat;
- k agricultural ethyl alcohol.

When applying the first subparagraph, the Commission shall take account of the need for export licences for the management of the markets concerned and, in particular, for monitoring the exports of the products in question.

2 Articles 131 to 133 shall apply *mutatis mutandis*.

3 The Commission shall adopt detailed rules for the application of paragraphs 1 and 2, including the terms of validity of the licences and the rate of security.

Section II

Export refunds

Article 162

Scope of export refunds

1 To the extent necessary to enable exports on the basis of world market quotations or prices and within the limits resulting from agreements concluded in accordance with Article 300 of the Treaty, the difference between those quotations or prices and prices in the Community may be covered by export refunds for:

- a the products of the following sectors to be exported without further processing:
 - (i) cereals;
 - (ii) rice;
 - (iii) sugar, with regard to the products listed in points (b), (c), (d) and (g) of Part III of Annex I;
 - (iv) beef and veal;
 - (v) milk and milk products;
 - (vi) pigmeat;
 - (vii) eggs;
 - (viii) poultrymeat;
- b the products listed in point (a)(i), (ii), (iii), (v) and (vii) to be exported in the form of goods listed in Annexes XX and XXI.

In the case of the milk and milk products exported in the form of products listed in Part IV of Annex XX, export refunds may only be granted for products listed in points (a) to (e) and (g) of Part XVI of Annex I.

2 Export refunds on products exported in the form of processed goods listed in Annexes XX and XXI may not be higher than those applicable to the same products exported without further processing.

3 Insofar as is necessary to take account of the features of production peculiar to certain spirit drinks obtained from cereals, the criteria for granting export refunds referred to in paragraphs 1 and 2, and the procedure for verification, may be adapted by the Commission to suit this particular situation.

Article 163

Export refund distribution

The quantities which may be exported with an export refund shall be allocated by the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available, account being taken

- of the efficiency and structure of Community exports without creating discrimination between the operators concerned and in particular between large and small operators;
- (b) is least cumbersome administratively for operators, account being taken of administrative requirements;
- (c) avoids any discrimination between the operators concerned.

Article 164

Export refund fixation

1 Export refunds shall be the same for the whole Community. They may vary according to destination, especially where the world market situation, the specific requirements of certain markets, or obligations resulting from agreements concluded in accordance with Article 300 of the Treaty make this necessary.

2 Refunds shall be fixed by the Commission.

Refunds may be fixed:

- a at regular intervals;
- b by invitation to tender for products in respect of which provision was made for that procedure before the date of application of this Regulation in accordance with Article 204(2).

Except where fixed by tender, the list of products on which an export refund is granted and the amount of export refunds shall be fixed at least once every three months. The amount of the refund may, however, remain at the same level for more than three months and may, where necessary, be adjusted in the intervening period by the Commission, without the assistance of the Committee referred to in Article 195(1), either at the request of a Member State or on its own initiative.

3 One or more of the following aspects shall be taken into account when refunds for a certain product are being fixed:

- a the existing situation and the future trend with regard to:
 - prices and availabilities of that product on the Community market,
 - prices for that product on the world market.
- b the aims of the common market organisation which are to ensure equilibrium and the natural development of prices and trade on this market;
- c the need to avoid disturbances likely to cause a prolonged imbalance between supply and demand on the Community market;
- d the economic aspect of the proposed exports;
- e the limits resulting from agreements concluded in accordance with Article 300 of the Treaty;
- f the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to third countries, and the use of third-country products brought in under processing arrangements;
- g the most favourable marketing costs and transport costs from Community markets to Community ports or other places of export together with forwarding costs to the countries of destination;
- h demand on the Community market;

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- i in respect of the pigmeat, eggs and poultrymeat sectors, the difference between prices within the Community and prices on the world market for the quantity of feed grain input required for the production in the Community of the products of those sectors.

4 A corrective amount applicable to the export refunds may be set by the Commission in respect of the cereals and rice sectors. However, where necessary, the Commission, without the assistance of the Committee referred to in Article 195(1), may amend the corrective amounts.

The first subparagraph may also be applied to products that are exported in the form of goods listed in Annex XX.

Article 165

Export refund for malt in storage

For the first three months of the marketing year, the refund applicable to exports of malt in storage at the end of the previous marketing year or made from barley in stock at that time shall be that which would have been applied in respect of the export licence in question to exports during the last month of the preceding marketing year.

Article 166

Export refund adjustment for cereals

Unless otherwise provided for by the Commission, the refund on products listed in points (a) and (b) of Part I of Annex I, established in accordance with Article 167(2), shall be adjusted by the Commission in line with the level of the monthly increases applicable to the intervention price and, where appropriate, changes in that price.

The first paragraph may be applied, in whole or in part, to products listed in points (c) and (d) of Part I of Annex I as well as to products referred to in Part I of Annex I and exported in the form of goods referred to in Part I of Annex XX. In that case, the adjustment referred to in the first subparagraph shall be corrected by applying to the monthly increase a coefficient expressing the ratio between the quantity of basic product and the quantity thereof contained in the processed product exported or used in the goods exported.

Article 167

Granting of export refund

1 Refunds on products listed in Article 162(1)(a) exported as such without further processing shall only be granted on application and on presentation of an export licence.

2 The refund applicable to products referred to in paragraph 1 shall be that applicable on the day of application for the licence or, as the case may be, that resulting from the tender procedure concerned and, in the case of a differentiated refund, that applicable on the same day:

- a for the destination indicated on the licence, or
- b where appropriate, for the actual destination if this differs from the destination indicated on the licence, in which case the amount applicable shall not exceed the amount applicable to the destination indicated on the licence.

Appropriate measures may be taken by the Commission to prevent abuse of the flexibility provided for in this paragraph.

3 By way of derogation from paragraph 1, the Commission may decide that in the case of eggs for hatching and of day-old chicks export licences may be granted *ex post*.

4 It may be decided, in accordance with the procedure referred to in Article 16(2) of Council Regulation (EC) No 3448/93⁽¹⁾, to apply paragraphs 1 and 2 to the goods referred to in Article 162(1)(b) of this Regulation.

5 Derogations from paragraph 1 and 2 may be granted by the Commission in the case of products on which export refunds are paid under food-aid operations.

6 The refund shall be paid upon submission of proof that:

- a the products have been exported from the Community;
- b in the case of a differentiated refund, the products have reached the destination indicated on the licence or another destination for which a refund was fixed, without prejudice to point (b) of paragraph 2.

However, exceptions may be allowed by the Commission provided that conditions are laid down which offer equivalent guarantees.

7 Further conditions for the granting of export refunds may be established by the Commission for one or more products. They may include:

- a that refunds are only paid for products of Community origin;
- b that the amount of refunds for imported products shall be limited to the duties collected on importation where those duties are lower than the refund applicable.

Article 168

Export refunds for live animals in the beef and veal sector

With regard to products of the beef and veal sector, the granting and the payment of the refund for exports of live animals shall be subject to compliance with the provisions established in Community legislation concerning animal welfare and, in particular, the protection of animals during transport.

Article 169

Export limits

Observance of the volume commitments resulting from the agreements concluded in accordance with Article 300 of the Treaty shall be ensured on the basis of export licences issued for the reference periods which apply to the products concerned. With regard to compliance with the obligations arising under the WTO Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

Article 170

Implementing rules

Detailed rules for the application of this Section shall be adopted by the Commission, in particular:

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- (a) on the redistribution of exportable quantities which have not been allocated or utilised;
- (b) governing the quality and other specific requirements and conditions of the products eligible for an export refund;
- (c) for monitoring whether operations conferring entitlement to the payment of refunds and all other amounts in respect of export transactions have actually been carried out and executed correctly, including physical checks and document scrutiny.

Any necessary amendments to Annex XX shall be made by the Commission taking into account the criteria referred to in the first subparagraph of Article 8(2) of Regulation (EC) No 3448/93.

However, the detailed rules for the application of Article 167 for products referred to in Article 162(1)(b) shall be adopted in accordance with the procedure referred to in Article 16(2) of Regulation (EC) No 3448/93.

Section III

Export quota management in the milk and milk products sector

Article 171

Management of tariff quotas opened by third countries

1 With regard to milk and milk products, where an agreement concluded in accordance with Article 300 of the Treaty provides for the total or partial management of a tariff quota opened by a third country, the management method to be applied and detailed rules relating to that method shall be adopted by the Commission.

2 The tariff quotas referred to in paragraph 1 shall be administered in a manner which avoids any discrimination between the operators concerned and which guarantees the full use of the possibilities available under the quota concerned, by applying one of the following methods or a combination of them or another appropriate method:

- a a method based on the chronological order of the lodging of applications ('first come, first served' principle);
- b a method of distribution in proportion to the quantities requested when the applications were lodged (using the 'simultaneous examination method');
- c a method based on taking traditional trade patterns into account (using the 'traditional/new arrival method').

Section IV

Special import treatment by third countries

Article 172

Certificates for products benefiting from a special import treatment in a third country

1 When products are exported which may, in accordance with agreements concluded by the Community in accordance with Article 300 of the Treaty, benefit from a special treatment

on importation into a third country if certain conditions are respected, the competent authorities of the Member States shall, on request and after appropriate checks, issue a document certifying that the conditions are met.

2 Detailed rules for the application of this Article shall be adopted by the Commission.

Section V

Special provisions for live plants

Article 173

Minimum export prices

1 For each of the products of the live plants sector falling within CN code 0601 10, one or more minimum prices for exports to third countries may be fixed by the Commission each year in good time before the marketing season.

Exportation of such products shall be permitted only at a price equal to or above the minimum price fixed for the product in question.

2 Detailed rules for the application of paragraph 1 shall be adopted by the Commission having regard to the obligations arising from agreements concluded in accordance with Article 300(2) of the Treaty.

Section VI

Outward processing

Article 174

Suspension of outward processing arrangements

1 Where the Community market is disturbed or is liable to be disturbed by outward processing arrangements, the Commission may suspend at the request of a Member State or on its own initiative fully or partially the use of outward processing arrangements for the products of the cereals, rice, beef and veal, pigmeat, sheepmeat and goatmeat and poultrymeat sectors. If the Commission receives a request from a Member State, it shall take a decision thereon within five working days following receipt of the request.

The Member States shall be notified of such measures, which shall be immediately applicable.

Measures decided on by the Commission pursuant to the first subparagraph may be referred to the Council by any Member State within five working days of the date on which they were notified. The Council shall meet without delay. It may, acting by qualified majority, amend or repeal the measures in question within one month following the date on which they were referred to the Council.

2 To the extent necessary for the proper functioning of the CMO, the use of outward processing arrangements for the products referred to in paragraph 1 may be fully or partially

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prohibited by the Council, acting in accordance with the procedure laid down in Article 37(2) of the Treaty.

(1) OJ L 318, 20.12.1993, p. 18.