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REGULATION (EEC) No 1180/68 OF THE COMMISSION

of 5 August 1968

amending Regulation No 633/67/EEC as regards the advance fixing of the export refund on cereals in cases of force majeure and on denatured common wheat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 120/67/EEC[1] of 13 June 1967 on the common organisation of the market in cereals, and in particular Article 16 (6) thereof;

Whereas Article 16 of that Regulation provides that, in the case of advance fixing of the refund, this must be adjusted for the threshold price in force during the month of exportation and that a corrective amount shall apply to it;

Whereas Commission Regulation No 633/67/EEC[2] of 27 September 1967 on the advance fixing of the export refund on cereals, as amended by Regulation (EEC) No 427/68[3] lays down detailed rules for calculating the corrective amount for the refund fixed in advance;

Whereas owing to certain cases of *force majeure* envisaged in Commission Regulation No 473/67/EEC[4] of 21 August 1967 on import and export licences for cereals, processed cereal products, rice, broken rice and processed rice products, as last amended by Regulation (EEC) No 1127/68,[5] cereals for which the export refund has been fixed in advance cannot be exported within the time limit envisaged in the exporter's export programme before the case of *force majeure* arose; whereas the cereals cannot therefore be exported until the disappearance of the circumstances caused by the case of *force majeure,* thus possibly causing the exporter considerable damage for which he is not responsible if the corrective amounts operative in the actual month of export, or in the last month of validity of the licence, are applied to the quantities of cereals which should have been exported during the period affected by the case of *force majeure,* whereas it is necssary to change that situation by applying to such quantities the corrective amount which had been fixed in advance for the month during which the export was envisaged;

Whereas Article 6 of Council Regulation No 172/67/EEC [6] of 27 June 1967 on general rules governing the denaturing of wheat and rye of bread-making quality provides that the export refund on denatured common wheat must be calculated on the basis of the export refund on barley; whereas it is necessary therefore to provide that the adjustment to be made to the refund on denatured common wheat pursuant to the first subparagraph of Article 16 (4) of Regulation No 120/67/EEC is that resulting from the variation in the threshold price for barley;

Whereas 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 Article 2a shall be inserted in Regulation No 633/67/EEC:

'*Article 2a*

1. If exportation takes place during the period of validity of the licence or during the extension thereof, but as a result of one of the cases of *force majeure* specified in Article 9 (2) of Regulation No 473/67/EEC, or its consequences, it has been made impossible during the month envisaged by the exporter, the corrective amount applicable to the quantities of cereals concerned shall where appropriate, by way of derogation

[1] OJ No 117, 19.6.1967, p. 2269/67.
[2] OJ No 233, 28.9.1967, p. 9.
[3] OJ No L 488, 9.4.1968, p. 12.
[4] OJ No 204, 24.8.1967, p. 16.
[5] OJ No L 187, 31.7.1968, p. 8.
[6] OJ No 130, 28.6.1967, p. 2602/67.

from Article 10 (3) of that Regulation, be that which had been fixed in advance for the month during which the export should have taken place.

2. The provisions of paragraph 1 shall apply only if the exporter can furnish proof that the export should actually have been carried out during the month in which the case of *force majeure* or its consequences made it impossible.

3. Member States shall forthwith notify the Commission of any application of the provisions of this Article.'

Article 2

The following Article 2b shall inserted in Regulation No 633/67/EEC;

'*Article 2b*

Where the export refund on denatured common wheat is fixed in advance, the adjustment provided for in the first subparagraph of Article 16 (4) of Regulation No 120/67/EEC shall be made on the basis of the threshold price for barley ruling during the month of export of the denatured common wheat.'

Article 3

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*. Article 1 shall apply to exports which are subject to licences issued on or after 1 January 1968. Article 2 shall apply from 26 July 1968.

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

Done at Brussels, 5 August 1968.

For the Commission

The President

Jean REY