REGULATION (EEC) No 2012/74 OF THE COMMISSION

of 30 July 1974

laying down detailed rules for the application of Regulation (EEC) No 1132/74 as regards production refunds on starches

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 organization of the market in cereals, as last amended by Regulation (EEC) No 1125/74 [2] ;

Having regard to Council Regulation No 359/67/EEC [3] of 25 July 1967 on the common organization of the market in rice, as last amended by Regulation (EEC) No 1129/74 [4] ;

Having regard to Council Regulation (EEC) No 1132/74 [5] of 29 April 1974 on production refunds in the cereals and rice sectors, and in particular Article 9 thereof ;

Having regard to the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community, and in particular Article 63 (1) of the Act [6] annexed thereto ;

Whereas Article 11 (1) (c) and (d) of Regulation No 120/67/EEC provides that a production refund is to be granted on maize groats and meal for use by the brewing industry in the manufacture of beer or by the glucose industry where the direct hydrolysis process is used ; whereas the characteristics of such products and, in particular, the quality and purity requirements which they must satisfy should be specified in greater detail in order to prevent production refunds from being granted in error in respect of products which look like maize groats or meal but which are in fact composed of a mixture of such products and other products, thus ensuring that the granting of refunds is based on the same criteria throughout the Community ;

Whereas it should be specified that the production refund is to be paid to producers of starch from groats and meal or broken rice and to importers of broken rice to be used by the starch or brewing industry ; whereas it is desirable that the person entitled to the production refund should be able to make use of it at the earliest possible date ; whereas this can be achieved if the basic product is placed under official supervision and the competent agency pays the production refund within 30 days of the day on which the application for placing under official supervision is accepted ; whereas it should also be provided that this refund will, where necessary, be adjusted by reference to the threshold price for the basic product concerned for the month during which processing takes place ;

Whereas common wheat starch is usually manufactured from common wheat flour ; whereas the production refund is calculated on the basis of the quantity of common wheat required to produce a given quantity of starch ; whereas it is therefore necessary to lay down a conversion rate for the expression of common wheat flour in terms of common wheat ;

Whereas it is necessary to specify which Member State is responsible for paying the production refund ; whereas for reasons of administrative facility this should be the Member State in which the basic product is processed or into which it is imported ;

Whereas, as regards the new Member States, any accession compensatory amount applicable should be taken into account when paying the production refund ;

Whereas sufficient proof that the groats and meal or broken rice have been used the starch industry concerned can be furnished by documents certifying that the product has been sold to the industry in question and by the control as to use ; whereas provision should be made for a system of administrative cooperation affording adequate safeguard to handle cases where the product in question is used in a Member State other than the State required to pay the production refund ;

Whereas, in order to ensure that processing is carried out or that the basic product placed under supervision is used for the purpose intended, provision should be made for the person entitled to the refund to lodge a security ; whereas such security will be released only when the trader concerned has fulfilled the obligations specified in this Regulation ;

Whereas the Commission must be informed of the methods of inspection and analysis applied by the Member States for purposes of applying this Regulation ;

(1) OJ No 117, 19. 6. 1967, p. 2269/67.
(2) OJ No L 128, 10. 5. 1974, p. 12.
(3) OJ No 174, 31. 7. 1967, p. 1.
(4) OJ No L 128, 10. 5. 1974, p. 20.
(5) OJ No L 128, 10. 5. 1974, p. 24.
(6) OJ No L 73, 27. 3. 1972, p. 14.

Whereas the following Commission Regulations have undergone numerous amendments :

— (EEC) No 559/68 [1] of 6 May 1968 laying down detailed rules for the application of Regulation No 367/67/EEC fixing production refunds on maize groats and meal and broken rice used in the brewing industry ; as last amended by Regulation (EEC) No 754/73 [2] ;

— (EEC) No 1060/68 [3] of 24 July 1968 laying down detailed rules for the application of Regulations No 367/67/EEC and No 371/67/EEC regarding production refunds on maize processed into groats and meal and on maize and common wheat processed into starch and quellmehl, as last amended by Regulation (EEC) No 488/73 [4] ;

— (EEC) No 2085/68 [5] of 20 December 1968 on certain detailed rules for granting the production refund on broken rice, as last amended by the Act of Accession [6] ;

— (EEC) No 1011/70 [7] of 29 May 1970 on certain quality requirements for maize groats and meal used by the Community brewing industry ; and

— (EEC) No 1796/70 [8] of 2 September 1970 fixing the standard qualities of raw materials qualifying for the production refund on manufacture of maize groats and meal intended for the brewing industry ;

Whereas it is desirable for the sake of clarity to combine the provisions of all these Regulations in a single Regulation ;

Whereas Commission Regulations (EEC) No 1009/73 [9] of 12 April 1973 adopting in respect of Denmark special measures for maize groats and meal used in the manufacture of glucose and (EEC) No 2755/73 [10] of 10 October 1973 on the calculation of the production refund on maize groats and meal used in the manufacture of glucose in Denmark laid down, in pursuance of Article 63 (1) of the Act of Accession, transitional provisions in respect of Denmark for the manufacture of glucose by direct hydrolysis ; whereas Regulation (EEC) No 1132/74 established the same provisions for the whole of the Community ; whereas those provisions should therefore be incorporated in this Regulation, and Regulations (EEC) No 1009/73 and (EEC) No 2755/73 should be repealed ;

Whereas certain Member States might encounter administrative or technical difficulties if the time limit set for the application of the arrangements provided for in this Regulation were too short ; whereas provision should therefore be made for a transitional period in which provisions operative before the entry into force of this Regulation may still be applied ;

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

1. For the purpose of this Regulation, 'groats and meal' means products obtained in the milling of maize grain. They are sharp-edged, granular fragments of the grain kernel and at least 70 % are uniform in size.

Without prejudice to the provisions of paragraph 3, groats and meal may contain no products other than those obtained in the normal milling process, such as starch, whether or not heat-modified, and similar products.

2. Maize groats and meal :

(a) must have a fat content calculated on the dry matter not exceeding 1·3 % by weight and a raw cellulose content calculated on the dry matter ; not exceeding 0·8 % by weight ;

(b) must not comprise more than 30 % matter which passes through a 315-micron mesh sieve ; and

(c) must comprise less than 5 % matter which passes through a 150-micron mesh sieve.

3. The production refund provided for in Article 4 of Regulation (EEC) No 1132/74 shall be calculated on the assumption that a maximum of 180 kg of maize are used by the maize industry in manufacturing 100 kg of maize groats and meal for use by the brewing industry in the manufacture of beer.

Article 2

1. The production refund provided for in Article 11 (1) (a), (c) and (d) of Regulation No 120/67/EEC and in Article 9 of Regulation No 359/67/EEC shall be paid :

(1) OJ No L 106, 7. 5. 1968, p. 6.
(2) OJ No L 72, 20. 3. 1973, p. 11.
(3) OJ No L 179, 25. 7. 1968, p. 38.
(4) OJ No L 48, 21. 2. 1973, p. 12.
(5) OJ No L 307, 21. 12. 1968, p. 11.
(6) OJ No L 73, 27. 3. 1972, p. 14.
(7) OJ No L 117, 30. 5. 1970, p. 54.
(8) OJ No L 196, 3. 9. 1970, p. 10.
(9) OJ No L 100, 14. 4. 1973, p. 29.
(10) OJ No L 284, 11. 10. 1973, p. 15.

(a) to producers of starch from common wheat or maize ;

(b) to producers of maize groats and meal for use by the brewing industry in the manufacture of beer or for the manufacture of glucose by direct hydrolysis ;

(c) to producers or importers of broken rice for use by the starch industry, or by the brewing industry for the manufacture of beer,

— provided such producers or importers, hereinafter called 'persons entitled to the refund', furnish proof that the basic product in question has been placed under supervision by the competent agencies of the Member States and state that they are prepared to supply on request all information necessary for such supervision.

Broken rice imported unprocessed and processed in the Community shall be treated in the same way as broken rice produced in the Community. When common wheat to be used for the production of flour and then of starch is placed under official supervision, a conversion rate of 140 kg of common wheat to 100 kg of flour shall be applied.

When common wheat flour to be used for the production of starch is placed under official supervision, a conversion rate of 140 kg of common wheat to 100 kg of flour shall be applied.

2. The production refund shall be paid by the Member State on whose territory the common wheat or maize starch, the maize groats and meal or the broken rice is produced or into whose territory the broken rice is imported.

3. It shall be calculated by reference to the threshold price applicable on the day on which the application for the basic product to be placed under offical supervision was accepted and shall be paid within 30 days following acceptance of such application.

It shall, where necessary, be adjusted *a posteriori* by reference to the threshold price valid for one month during which processing takes place. The amount of such adjustment shall be :

(a) paid by the competent agency to the person entitled to the refund if the threshold price for the product concerned valid for the month during which processing takes place is higher than that valid on the day on which the application for official supervision was accepted ; or

(b) repaid by the person entitled to the refund to the competent agency if the threshold price for the product concerned valid for the month during which processing takes place is lower than that valid on the day on which the application for official supervision was accepted not more than 30 days after the month during which processing takes place.

For the new Member States, the amount to be taken into consideration shall be the threshold price of the basic product less the relevant accession compensatory amount. Moreover, for the purposes of the adjustment referred to in the preceding paragraph, the accession compensatory amount to be deducted from the threshold price valid for the month during which processing takes place shall be that valid on the day on which the application for official supervision is accepted.

Article 3

If the maize groats and meal or the broken rice is for use in a Member State :

(a) account shall be taken of any accession compensatory amount applied ;

(b) proof of the use of maize groats and meal in the brewing or glucose industry and of broken rice in the starch or brewing industry may be furnished only by production of the control copy provided for in Article 1 of the Regulation (EEC) No 2315/69. On that copy :

(aa) Sections 101, 103 and 104 shall be completed ;

(bb) Section 104 shall be completed by deleting as appropriate and entering against the second indent the relevant form of the following endorsements :

— intended for use in the 'brewing industry', 'glucose industry by direct hydrolysis process,' or 'starch industry' in accordance with the Regulation (EEC) No ..... ;

— bestimmt zur Verwendung in der 'Brauereiindustrie', 'Glukoseindustrie nach direktem Hydrolyseverfahren' oder 'Stärkefabrik' gemäß den Bestimmungen der Verordnung (EWG) Nr. ..... ;

— bestelt til anvendelse i 'bryggerier', 'Glukoseindustrien efter direkte hydrolyse' eller 'stivelsesindustrie' i henhold til bestemmelserne i serne i forordning (EØF) nr. ..... ;

— destiné à l'utilisation en 'brasserie', en 'glucoserie suivant le procédé d'hydrolyse directe' ou en 'amidonneri', conformément aux dispositions du règlement (CEE) no ..... ;

— destinato alla 'fabbricazione della birra', 'glucosie secondo processo idrolitico diretto' o 'industria dell'ammido', conformemento allo disposizioni del regolamento (CEE) n. ..... ;

— bestemd voor verwerking in de 'brouwerij', 'glucose-industrie volgens hydrolyseprocédé' of 'zetmeelfabriek', overeenkomstig de bepalingen van Verordening (EEG) nr. ..... ;

(c) the quantity of maize groats and meal actually used by the brewing or glucose industry or the quantity of broken rice actually used by the starch or brewing industry shall be entered in the Section 'Control as to use and/or destination' under the heading 'Remarks'.

Article 4

1. The granting of the refund referred to in Article 1 shall be conditional on the lodging by the person entitled to the refund of a security guaranteeing the processing and/or use of the basic product.

The security may take form of a guarantee given by a credit institution or any other agency meeting the criteria fixed by such Member State.

2. The amount of the security shall be equal to 5 % of the production refund requested.

3. The security shall not be released until the person entitled to the refund has furnished proof to the agency of the Member State responsible for payment that at least 96 % of the quantity of the basic product placed under supervision has been processed not later than 90 days following acceptance of the application for the product to be placed under official supervision.

Moreover, in respect of maize processed into groats and meal to be used either for the manufacture of beer or for the manufacture of glucose by direct hydrolysis and in respect of broken rice for the manufacture of starch or of beer, the security shall not be released, except in the case referred to in Article 3, until the person entitled to the refund has submitted to the competent authority an application to which must be appended a copy of his invoice of sale to a starch manufacturing undertaking, to a brewery, or to a glucose manufacturing undertaking using direct hydrolysis, stating the quantity, expressed in net weight, of the maize groats and meal or broken rice sold and the exact business name of the undertaking concerned.

In addition, the Member State on whose territory the groats and meal of maize or broken rice are used shall ensure, by means of appropriate checks, that the product concerned has been used in brewing, in glucose manufacture or in the manufacture of rice starch.

The competent agency of the Member State in question shall, taking economic and industrial exigencies into account, stipulate within that period the product in question must be used by the brewing, glucose or rice starch industry.

4. Furthermore, where Article 2 (3) (b) applies, the security shall be released only after repayment of the amount of the adjustment referred to therein by the person entitled to the refund.

5. However, where, as a result of *force majeure*, the basic product has not been processed or used within the prescribed period, the competent agency of the Member State shall, at the request of the person entitled to the refund, decide in the light of the circumstances evoked whether the security should be released or the period set for processing extended.

If the competent agency finds that *force majeure* exists, its Member State shall forthwith notify the Commission, which shall inform the other Member States.

Article 5

Details of the methods of inspection and analysis necessary for the application of this Regulation shall be communicated by every Member State to the Commission within three months following the entry into force of this Regulation. Any alterations made to those methods shall be communicated to the Commission forthwith.

Article 6

Subject to the provisions of Article 7 (2), Regulations (EEC) No 559/68, No (EEC) 1060/68, (EEC) No 2085/68, (EEC) No 1011/70, (EEC) No 1796/70, (EEC) No 1009/73 and (EEC) No 2755/73 are hereby repealed.

Article 7

1. This Regulation shall enter into force on :

— 1 August 1974 for products coming under Regulation No 120/67/EEC ;

— 1 September 1974 for products coming under Regulation No 359/67/EEC.

2. However, without prejudice to the amount of the production refund, Member States may during a transitional period lasting until 31 December 1974, continue to apply the provisions of the Regulations referred to in Article 6. Furthermore, where a Member State avails itself of such option, the provisions of the said Regulations, other than Regulation (EEC) No 1796/70, which apply to maize groats and meal for the manufacture of beer shall apply to maize groats and meal for the manufacture of glucose by the direct hydrolysis process.

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

Done at Brussels, 30 July 1974.

For the Commission

The President

François-Xavier ORTOLI