COMMISSION REGULATION (EC) No 1323/2002

of 22 July 2002

derogating from Regulation (EC) No 800/1999 as regards the export of cereals products to third countries other than Hungary

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2], and in particular Article 13 thereof,

Whereas:

(1) Article 3 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 1253/2002 [4], states that entitlement to the refund is acquired on importation into a specific third country when a differentiated refund applies for that third country. Articles 14, 15 and 16 of the Regulation lay down the conditions for the payment of the differentiated refund, in particular the documents to be supplied as proof of the goods' arrival at destination.

(2) In the case of a differentiated refund, Article 18(1) and (2) of Regulation (EC) No 800/1999 states that part of the refund, calculated using the lowest refund rate, is paid on application by the exporter once proof is furnished that the product has left the customs territory of the Community.

(3) A trade agreement has recently been concluded between the European Commission and Hungary, introducing concessions in the form of Community tariffs for certain agricultural products and complete liberalisation of trade in other agricultural products. In the cereals sector the abolition of refunds for most of the products listed in Article 1(1) of Regulation (EEC) No 1766/92 is one of the concessions introduced.

(4) The Hungarian authorities have undertaken to grant the preferential duty to cereal products imported into Hungary only if the product concerned is accompanied by documents certifying that it has not benefited from an export refund. The full rate of duty applies in the absence of such documents. As the full rate of duty is higher than the amount of the refund currently granted for exports to other third countries, there is no risk of a diversion of trade.

(5) Account should therefore be taken of these arrangements when applying the above provisions of Regulation (EC) No 800/1999 in order to avoid imposing unnecessary costs on exporters in their commercial trade with third countries. To this end, no account should be taken of the fact that no refund has been fixed for the particular destination in question when determining the lowest rate of refund.

(6) 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. Notwithstanding Article 16 of Regulation (EC) No 800/1999, where the differentiation of the refund is the result solely of a refund not having been fixed for Hungary, proof that the customs import formalities have been completed shall not be required for payment of the refund for the products listed in the Annex to this Regulation.

2. The fact that a refund has not been fixed for the products for export to Hungary listed in the Annex hereto shall not be taken account in determining the lowest rate of refund within the meaning of Article 18(2) of Regulation (EC) No 800/1999.

Article 2

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

It shall apply to applications for export licences submitted on or after 1 July 2002.

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 102, 17.4.1999, p. 11.
[4] OJ L 183, 12.7.2002, p. 12.

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

Done at Brussels, 22 July 2002.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

CEREAL PRODUCTS COVERED BY THE TRADE AGREEMENT WITH HUNGARY

(CN code)

1001 10 00, 1001 90 91, 1001 90 99, 1002 00 00, 1003 00 10, 1003 00 90, 1004 00 00, 1005 10 90, 1005 90 00, 1007 00 90, 1008 20 00, 1101 00 11, 1101 00 15, 1101 00 90, 1102 10 00, 1102 20 10, 1102 20 90, 1102 90 10, 1102 90 30, 1103 11 10, 1103 11 90, 1103 12 00, 1103 13 10, 1103 13 11, 1103 13 90, 1103 19 10, 1103 19 30, 1103 19 40, 1103 20 20, 1103 20 60, 1104 12 90, 1104 19 10, 1104 19 50, 1104 19 50, 1104 19 69, 1104 22 20, 1104 22 30, 1104 23 10, 1104 23 10, 1104 29 01, 1104 29 03, 1104 29 05, 1104 29 11, 1104 29 51, 1104 29 55, 1104 30 10, 1104 30 90, 1107 10 11, 1107 10 19, 1107 10 91, 1107 10 99, 1107 20 00.