COMMISSION REGULATION (EC) No 1801/2002

of 10 October 2002

amending Regulation (EC) No 1323/2002 derogating from Regulation (EC) No 800/1999 as regards the export of cereal 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) Council Regulation (EC) No 1408/2002 [3] establishes concessions in the form of Community tariff quotas for certain agricultural products and provides for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Hungary. In the cereals sector, one of these concessions is the elimination as of 1 July 2002 of refunds on most of the products referred to in Article 1(1) of Regulation (EEC) No 1766/92.

(2) Since Regulation (EC) No 1408/2002 was not adopted and published until the end of July, at 1 July 2002 Hungary had not been excluded from the eligible destinations under the invitation to tender for export refunds on common wheat opened by Commission Regulation (EC) No 899/2002 [4], as amended by Regulation (EC) No 1520/2002 [5]. However, since refunds were granted during that period under the tendering procedure concerned, flat-rate negative corrections have been introduced for exports to Hungary to prepare for the retroactive application of the EC-Hungary trade agreement, and this has led to a situation of differentiated refunds.

(3) Commission Regulation (EC) No 1323/2002 [6] provides that proof that the customs import formalities have been completed, as required by Commission Regulation (EC) No 800/1999 laying down common detailed rules for the application of the system of export refunds on agricultural products [7], as last amended by Regulation (EC) No 1253/2002 [8], is not to be required for payment of the refund where the differentiation of the refund is the result solely of a refund not having been fixed for Hungary.

(4) Since the Hungarian authorities have undertaken not to grant preferential duty to cereal products imported into Hungary unless the goods are accompanied by documents certifying that they have not received a refund, and since there is no danger of deflection of trade, the derogation provided for in Regulation (EC) No 1323/2002 should also be granted in the case where the refund is set at zero by means of negative corrections.

(5) Article 1 of Regulation (EC) No 1323/2002 should therefore be supplemented accordingly.

(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

Article 1 of Regulation (EC) No 1323/2002 is replaced by the following:

'*Article 1*

1. As an exception to 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 or the setting at zero of that refund by means of negative corrections, proof that customs formalities for importation 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 or has been set at zero by means of negative corrections for the products for export to Hungary listed in the Annex to Regulation (EC) No 1162/95 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 lodged from 1 July 2002.

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 205, 2.8.2002, p. 9.
[4] OJ L 142, 31.5.2002, p. 11.
[5] OJ L 228, 24.8.2002, p. 18.
[6] OJ L 194, 23.7.2002, p. 24.
[7] OJ L 102, 17.4.1999, p. 11.
[8] OJ L 183, 12.7.2002, p. 12.