COMMISSION REGULATION (EEC) No 2670/81

of 14 September 1981

laying down detailed implementing rules in respect of sugar production in excess of the quota

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector [1], and in particular Article 26 (3) thereof,

Whereas Article 26 of Regulation (EEC) No 1785/81 provides that C sugar which is not carried forward to the following marketing year pursuant to Article 27 of the said Regulation and C isoglucose must be exported in the natural state without refunds or levies before 1 January following the end of the marketing year in question ; whereas, if part or all of these quantities are disposed of on the internal market or if they are not exported before the date laid down, a charge is to be levied, in respect of the quantities in question, which is to be fixed in accordance with the procedure laid down in Article 41 of Regulation (EEC) No 1785/81 ; whereas the detailed rules governing this matter were adopted in Commission Regulation (EEC) No 2645/70 of 28 December 1970 on the provisions applicable to sugar produced in excess of the maximum quota [2], as last amended by Regulation (EEC) No 1367/78 [3], and in Commission Regulation (EEC) No 1700/80 of 30 June 1980 laying down detailed rules for the application of quotas for the production of isoglucose during the period 1 July 1980 to 30 June 1981 [4] ; whereas Regulation (EEC) No 2645/70 has already been amended several times and whereas further amendments are necessary in view of the basic provisions of Regulation (EEC) No 1785/81 concerning sugar and isoglucose, which are both sweeteners and in which there is a single market ; whereas therefore, for reasons of clarity, a new Regulation should be adopted incorporating the detailed rules concerning C sugar and C isoglucose ;

Whereas for administrative reasons it must be specified that, for the purposes of Article 26 of Regulation (EEC) No 1785/81, the quantity of C sugar or C isoglucose in respect of which proof of export within the prescribed period has not been furnished by the manufacturer before a final date is to be considered as having been disposed of on the internal market ; whereas for the same reasons the documents to be used to furnish this proof should be those used for export as required by Commission Regulation (EEC) No 2630/81 of 10 September 1981 laying down special detailed rules for application of the system of import and export licences in the sugar sector [5] and in Commission Regulation (EEC) No 3183/80 of 3 December 1980 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products [6], as last amended by Regulation (EEC) No 2646/81 [7] ;

Whereas when the charge to be levied in cases of disposal on the internal market is fixed, it is essential to place C sugar or C isoglucose which has not been exported on a similar footing to sugar or isoglucose imported from non-member countries ; whereas for this purpose the charge should be fixed taking account both of the import levy for sugar or, for isoglucose, of the variable element referred to in Article 16 (6) of Regulation (EEC) No 1785/81 at the highest rate applicable during a period comprising the marketing year during which the sugar or isoglucose in question was produced and the six months following that marketing year, and also of a flat rate amount fixed on the basis of the cost of disposing of sugar imported from non-member countries ;

Whereas goods supplied to the destinations referred to in Article 5 of Commission Regulation (EEC) No 2730/79 of 29 November 1979 laying down common detailed rules for the application of the system of export refunds on agricultural products [8], as last amended by Regulation (EEC) No 2646/81, are not to be considered as exports ;

Whereas a manufacturer should be allowed to export sugar or isoglucose which has not been produced by him ; whereas it is necessary to provide in that case for the payment of a flat-rate amount which may be considered in all cases as compensation for any advantage accruing from such a substitution ;

Whereas it is necessary to provide for certain measures in cases where *force majeure* make it impossible to export C sugar and C isoglucose ; whereas it is justified to make these measures applicable retroac-

(1) OJ No L 177, 1. 7. 1981, p. 4.
(2) OJ No L 283, 29. 12. 1970, p. 48.
(3) OJ No L 166, 23. 6. 1978, p. 24.
(4) OJ No L 166, 1. 7. 1980, p. 90.
(5) OJ No L 258, 11. 9. 1981, p. 16.
(6) OJ No L 338, 13. 12. 1980, p. 1.
(7) OJ No L 259, 12. 9. 1981, p. 10.
(8) OJ No L 317, 12. 12. 1979, p. 1.

tively so that the few cases of this kind which have occurred in the past may be dealt with to the benefit of those concerned, in particular through non-payment of the charge to be paid when the product in question has for this reason not been exported;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

1. The C sugar and C isoglucose referred to in Article 26 (1) of Regulation (EEC) No 1785/81 must be exported from the Member State on whose territory they were produced.

Manufacturers of C sugar or C isoglucose must furnish proof that it has been exported:

— as white sugar or raw sugar, non-denatured, or as isoglucose in its natural state,

— without refund or levy,

— from the Member State on whose territory it was produced.

If no proof is furnished that the sugar or isoglucose was exported from the Community before 1 January following the end of the maketing year during which the C sugar or the C isoglucose was produced, the quantity in question shall be considered to have been disposed of on the internal market.

2. The provisions of Article 5 of Regulation (EEC) No 2730/79 may not be invoked with regard to application of this Regulation.

Article 2

1. The proof referred to in Article 1 shall be submitted to the competent agency of the Member State on whose territory the C sugar or C isoglucose was produced.

2. Such proof shall be furnished by the production of:

(a) an export licence issued pursuant to Article 3 of Regulation (EEC) No 2630/81 to the manufacturer by the competent agency of the Member State referred to in paragraph 1;

(b) the documents referred to in Article 30 of Regulation (EEC) No 3183/80 required for the release of the security;

(c) a statement by the manufacturer to the effect that the C sugar or C isoglucose was produced by him.

For the purpose of export the manufacturer in question may, however, replace C sugar by another sugar or C isoglucose by another isoglucose produced by another manufacturer established on the territory of the same Member State. In that case the manufacturer making the substitution must pay in respect of sugar 1·25 ECU per 100 kilograms and in respect of isoglucose 1·25 ECU per 100 kilograms of dry matter.

In the case of C sugar, the conversion under a work contract of syrups or raw sugar into white sugar for eventual export shall not be regarded as a substitution within the meaning of the preceding subparagraph.

3. The proof referred to in Article 1 must be submitted before 1 February following 1 January referred to in Article 1 (1).

In special cases, however, the competent agency of the Member State in question may allow a longer period.

Article 3

1. The Member State concerned shall impose on the quantities which, within the meaning of Article 1 (1) have been disposed of on the internal market, a charge equal to the sum of:

(a) for C sugar, per 100 kilograms:

— the highest import levy per 100 kilograms of white or raw sugar, as the case may be, applicable during the period comprising the marketing year during which the sugar in question was produced and the six months following that marketing year, and

— 1·25 ECU;

(b) for C isoglucose, per 100 kilograms of dry matter:

— the highest variable component referred to in Article 16 (6) of Regulation (EEC) No 1785/81 per 100 kilograms of dry matter applicable during the period comprising the marketing year during which the isoglucose in question was produced and the six months following that marketing year, and

— 1·25 ECU.

2. The Member State concerned shall, before 1 March following 1 January referred to in Article 1, notify those manufacturers who are required to pay the charge referred to in paragraph 1 of the total amount to be paid.

Such total amount shall be paid by the manufacturers in question before 20 March of the same year.

3. However, where the competent agency has, pursuant to the second subparagraph of Article 2 (3), extended the time limit for furnishing the proof, the dates referred to in paragraph 2 shall be replaced by the dates determined by the competent agency on the basis of the extension allowed.

4. In the case of quantities of C sugar or C isoglucose which prior to export, were destroyed or damaged without possibility of recovery, in circumstances recognized by the competent agency of the Member State concerned as a case of *force majeure*, the relevant amount referred to in paragraph 1 shall not be levied.

Article 4

1. The Member State concerned shall, before 15 January following 1 January referred to in Article 1, notify those manufacturers who are required to pay the amount referred to in the second subparagraph of Article 2 (2) of the total amount to be paid.

2. Such total amount shall be paid by the manufacturers in question before 1 February of the same year.

Article 5

Regulation (EEC) No 2645/70 is hereby repealed.

It shall remain applicable to sugar produced in excess of the maximum quota for the 1980/81 sugar marketing year.

Article 6

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

Article 3 (4) shall apply with effect from 1 July 1979.

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

Done at Brussels, 14 September 1981.

For the Commission

Poul DALSAGER

Member of the Commission