COMMISSION IMPLEMENTING REGULATION (EU) No 629/2013

of 28 June 2013

laying down further exceptional measures as regards the release of out-of-quota sugar and isoglucose on the Union market at reduced surplus levy during the 2012/13 marketing year

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) [1], and in particular Article 64(2) and Article 186, in conjunction with Article 4 thereof,

Whereas:

(1) During the 2011/12 sugar marketing year, the Union average bulk white sugar ex-factory price reached a level of 175 % of the reference price of EUR 404/tonne and was approximately EUR 275/tonne higher than the world market price. The Union price is now stable at a level of around EUR 700/tonne, which is the highest level reached since the reform of the sugar market organisation and disturbs the optimal fluidity of the sugar supply on the Union market. The expected increase of this already high price level at the beginning of the 2012/13 marketing year substantiated the risk of serious market disturbances which had to be prevented by the necessary measures. On 18 January, 15 February and 22 March 2013 the Commission adopted Implementing Regulations (EU) No 36/2013 [2], (EU) No 131/2013 [3] and (EU) No 281/2013 [4] providing exceptional measures intended to address the market disturbance. Notwithstanding the measures taken, the current prices registered on the market show that it is necessary to adopt further measures to address the persisting market disturbance.

(2) Based on the estimated supply and demand for 2012/13, the ending stocks for the sugar market are expected to be lower by at least 500 000 tonnes than in 2011/12. This figure already takes into account the imports from third countries benefiting from certain preferential agreements.

(3) On the other hand, the expectations of a good harvest lead to estimate the production of nearly 4 600 000 tonnes in excess of the sugar quota set out in Article 56 of Regulation (EC) No 1234/2007. Taking account of the foreseeable contractual commitments of sugar producers in respect of certain industrial uses provided for in Article 62 of that Regulation and of the 2012/13 export commitments for out-of-quota sugar, substantial quantities of out-of-quota sugar of at least 1 200 000 tonnes would still be available. Part of this sugar could be made available to alleviate the tight supply of the Union sugar food market and to avoid excessive price increases.

(4) In order to ensure the fluidity of the market, it is necessary to release out-of-quota sugar. It should be possible to take such a measure each time it is necessary during the marketing year 2012/13.

(5) Pursuant to Articles 186 and 188 of Regulation (EC) No 1234/2007 measures may be taken, when necessary, to remedy market disturbances or the risk of disturbances, where, in particular, these result from a significant rise of prices in the Union, provided that this objective cannot be reached by means of other measures available under that Regulation. Given the current market circumstances, Regulation (EC) No 1234/2007 does not provide for any specific measures aimed at limiting the high sugar price trend and allowing sugar supply at reasonable prices on the Union market, other than those based on Article 186 of that Regulation.

(6) Article 64(2) of Regulation (EC) No 1234/2007 empowers the Commission to fix the surplus levy on sugar and isoglucose produced in excess of the quota at a sufficiently high level in order to avoid the accumulation of surplus quantities. Article 3(1) of Commission Regulation (EC) No 967/2006 of 29 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 318/2006 as regards sugar production in excess of the quota [5] has fixed that levy at EUR 500 per tonne.

(7) For a limited quantity of sugar produced in excess of the quota, a reduced surplus levy should be fixed at a level per tonne allowing for a fair treatment of Union sugar producers, ensuring the good functioning of the Union sugar market and helping to reduce the difference between Union and world market sugar prices without creating risks of accumulation of surpluses in the Union market.

(8) As Regulation (EC) No 1234/2007 fixes quotas for both sugar and isoglucose, a similar measure should apply for an appropriate quantity of isoglucose produced in excess of the quota because the latter product is, to some extent, a commercial substitute for sugar.

(1) OJ L 299, 16.11.2007, p. 1.
(2) OJ L 16, 19.1.2013, p. 7.
(3) OJ L 45, 16.2.2013, p. 1.
(4) OJ L 84, 23.3.2013, p. 19.
(5) OJ L 176, 30.6.2006, p. 22.

(9) With a view to increasing the supply, sugar and isoglucose producers should apply to the competent authorities of the Member States for certificates allowing them to sell certain quantities, produced above the quota limit, on the Union market with a reduced surplus levy.

(10) The reduced surplus levy should be paid after the application is admitted and before the certificate is issued.

(11) The validity of the certificates should be limited in time to encourage a fast improvement of the supply situation.

(12) Fixing upper limits of the quantities for which each producer can apply in one application period and restricting the certificates to products of the applicant's own production should prevent speculative actions within the system created by this Regulation.

(13) With their application, sugar producers should commit themselves to pay the minimum price for sugar beet used to produce the quantity of sugar for which they apply. The minimum eligibility requirements for applications should be specified.

(14) The competent authorities of the Member States should notify the Commission of the applications received. In order to simplify and standardise those notifications, models should be made available.

(15) The Commission should ensure that certificates are granted only within the quantitative limits fixed in this Regulation. Therefore, if necessary, the Commission should be able to fix an allocation coefficient applicable to the applications received.

(16) Member States should immediately inform the applicants whether the quantity applied for was fully or partially granted.

(17) The competent authorities should notify the Commission of the quantities for which certificates with a reduction of the surplus levy have been issued. For this purpose, models should be made available by the Commission.

(18) Sugar quantities released on the Union market of quantities in excess of the certificates issued under this Regulation should be subject the surplus levy set out in Article 64(2) of Regulation (EC) No 1234/2007. It is therefore appropriate to provide that any applicant not fulfilling his commitment to release on the Union market the quantity covered by a certificate delivered to him, should also pay an amount of EUR 500 per tonne. This consistent approach is aimed at preventing abuse of the mechanism introduced by this Regulation.

(19) For the purpose of establishing average prices for quota and out-of-quota sugar on the Union market in accordance with Article 13(1) of Commission Regulation (EC) No 952/2006 of 29 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 318/2006 as regards the management of the Community market in sugar and the quota system [1], sugar covered by a certificate issued pursuant to this Regulation should be considered as quota sugar.

(20) In accordance with Article 2(1)(a) of Council Decision 2007/436/EC, Euratom of 7 June 2007 on the system of the European Communities' own resources [2] contributions and other duties provided for within the framework of the common organisation of the markets in the sugar sector are to constitute own resources. It is therefore necessary to set the date of establishment of the amounts in question within the meaning of Article 2(2) and Article 6(3)(a) of Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 2007/436/EC, Euratom on the system of the Communities' own resources [3].

(21) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Temporary reduction of the surplus levy

1. By way of derogation from Article 3(1) of Regulation (EC) No 967/2006, the amount of the surplus levy for a maximum quantity of 150 000 tonnes of sugar in white sugar equivalent and 8 000 tonnes of isoglucose in dry matter, produced in excess of the quota fixed in Annex VI to Regulation (EC) No 1234/2007 and released on the Union market in the 2012/13 marketing year, shall be fixed at EUR 148 per tonne.

2. The reduced surplus levy provided for in paragraph 1 shall be paid after the application referred to in Article 2 is admitted and before the certificate referred to in Article 6 is issued.

Article 2

Application for certificates

1. In order to benefit from the conditions specified in Article 1, sugar and isoglucose producers shall apply for a certificate.

2. Applicants may be only undertakings producing beet and cane sugar or isoglucose, which are approved in accordance with Article 57 of Regulation (EC) No 1234/2007 and have been allocated a production quota for the 2012/13 marketing year, in accordance with Article 56 of that Regulation.

3. Each applicant may submit not more than one application for sugar and one for isoglucose per application period.

[1] OJ L 178, 1.7.2006, p. 39.
[2] OJ L 163, 23.6.2007, p. 17.
[3] OJ L 130, 31.5.2000, p. 1.

4. Applications for certificates shall be submitted by fax or electronic mail to the competent authority in the Member State in which the undertaking was approved. The competent authorities of the Member States may require that electronic applications be accompanied by an advance electronic signature within the meaning of Directive 1999/93/EC of the European Parliament and of the Council [1].

5. To be admissible, the applications shall fulfil the following conditions:

(a) the applications shall indicate:

(i) the name, address and VAT number of the applicant; and

(ii) the quantities applied for, expressed in tonnes of white sugar equivalent and tonnes of isoglucose in dry matter, rounded to no decimal places;

(b) the quantities applied for in this application period, expressed in tonnes of white sugar equivalent and tonnes of isoglucose in dry matter, shall not exceed 50 000 tonnes in the case of sugar and 2 500 tonnes in the case of isoglucose;

(c) if the application concerns sugar, the applicant shall commit himself to pay the minimum beet price, set out in Article 49 of Regulation (EC) No 1234/2007, for the quantity of sugar covered by certificates issued in accordance with Article 6 of this Regulation;

(d) the application shall be written in the official language or one of the official languages of the Member State in which the application is lodged;

(e) the application shall indicate a reference to this Regulation and the expiry date for the submission of the applications;

(f) the applicant shall not introduce any additional conditions to those laid down in this Regulation.

6. An application which is not submitted in accordance with paragraphs 1 to 5 shall not be admissible.

7. An application may not be withdrawn or amended after its submission, even if the quantity applied for is granted only partially.

Article 3

Submission of applications

The period during which applications may be submitted shall end on 10 July 2013 at 12 noon, Brussels time.

Article 4

Transmission of applications by the Member States

1. The competent authorities of the Member States shall decide on the admissibility of applications on the basis of the conditions set out in Article 2. Where the competent authorities decide that an application is inadmissible, they shall inform the applicant without delay.

2. The competent authority shall notify the Commission on Friday at the latest, by fax or electronic mail, of the admissible applications submitted during the preceding application period. That notification shall not contain the data referred to in Article 2(5)(a)(i). Member States that received no applications but have sugar or isoglucose quota allocated to them in the 2012/13 marketing year, shall also send their nil returns notifications to the Commission within the same time limit.

3. The form and content of the notifications shall be defined on the basis of models made available by the Commission to the Member States.

Article 5

Exceeded limits

When the information notified by the competent authorities of the Member States pursuant to Article 4(2) indicates that the quantities applied for exceed the limits set out in Article 1, the Commission shall:

(a) fix an allocation coefficient, which the Member States shall apply to the quantities covered by each notified certificate application;

(b) reject applications not yet notified.

Article 6

Issue of certificates

1. Without prejudice to Article 5, on the 10th working day following a week where the application period ended, the competent authority shall issue certificates for the applications notified to the Commission, in accordance with Article 4(2).

2. Each Monday Member States shall notify the Commission of the quantities of sugar and/or isoglucose for which they issued certificates in the preceding week.

3. A template of the certificate is set out in the Annex.

Article 7

Validity of certificates

Certificates shall be valid until the end of the second month following the month of issue.

Article 8

Transferability of certificates

Neither the rights nor the obligations deriving from the certificates shall be transferable.

Article 9

Price reporting

For the purpose of Article 13(1) of Regulation (EC) No 952/2006, the quantity of sugar sold which is covered by a certificate issued pursuant to this Regulation shall be considered as quota sugar.

Article 10

Monitoring

1. Applicants shall add to their monthly notifications provided for in Article 21(1) of Regulation (EC) No 952/2006 the quantities for which they received certificates in accordance with Article 6 of this Regulation.

(1) OJ L 13, 19.1.2000, p. 12.

2. Before 31 October 2013, each holder of a certificate under this Regulation shall submit to the competent authorities of the Member States proof that all quantities covered by his certificates were released on the Union market. Each tonne covered by a certificate but not released on the Union market for reasons other than *force majeure*, shall be subject to payment of an amount of EUR 352/tonne.

3. Member States shall notify the Commission of the quantities not released on the Union market.

4. Member States shall calculate and notify the Commission of the difference between the total quantity of sugar and isoglucose produced by each producer in excess of the quota and the quantities which have been disposed by the producers in accordance with the second subparagraph of Article 4(1) of Regulation (EC) No 967/2006. If the remaining quantities of out-of-quota sugar or isoglucose of a producer are less than the quantities issued for that producer for under this Regulation, the producer shall pay an amount of EUR 500/tonne on that difference.

5. The notifications provided for in paragraphs 3 and 4 shall be made not later than 30 June 2014.

Article 11

Date of establishment

For the purposes of Article 2(2) and Article 6(3)(a) of Regulation (EC, Euratom) No 1150/2000, the date of establishment of the Union's entitlement shall be the date on which the surplus levy is paid by the applicants in accordance with Article 1(2) of this Regulation.

Article 12

Entry into force

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

It shall expire on 30 June 2014.

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

Done at Brussels, 28 June 2013.

For the Commission

The President

José Manuel BARROSO

ANNEX

Model for the certificate referred to in Article 6(3)

CERTIFICATE

for the reduction, for the 2012/13 marketing year, of the levy provided for in Article 3 of Regulation (EC) No 967/2006

Member State:	
Quota holder:	
Product:	
Quantities applied:	
Quantities issued:	
Levy paid (EUR/t):	EUR 148/tonne
For the 2012/13 marketing year, the levy referred to in Article 3 of Regulation (EC) No 967/2006 shall not apply to the quantities issued of this certificate, subject to the respect of the rules laid down in Commission Implementing Regulation (EU) No 629/2013, in particular in Article 2(5)(c).	
Signature of the competent authority of the Member State:	Date of issue:
This certificate shall be valid until the end of the second month following the date of issue.	