

COMMISSION REGULATION (EEC) No 1443/82

of 8 June 1982

laying down detailed rules for the application of the quota system in the sugar sector

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⁾, as last amended by Regulation (EEC) No 606/82⁽²⁾, and in particular Articles 27 (3), 28 (7), 29 (5) and 39 thereof,

Having regard to Council Regulation (EEC) No 206/68 of 20 February 1968 laying down outline provisions for contracts and inter-trade agreements on the purchase of beet⁽³⁾, as last amended by the Act of Accession of Greece, and in particular Article 11 thereof,

Whereas the recent entry into force of the new quota system established by Regulation (EEC) No 1785/81 requires numerous changes to be made in the existing implementing rules; whereas these changes and those already introduced in connection with Commission Regulation (EEC) No 700/73 of 12 March 1973 laying down certain detailed rules for the application of the quota system for sugar⁽⁴⁾, make it desirable to revise that Regulation completely;

Whereas, if the quota system in the sugar sector and the provisions of Articles 26 to 29 of Regulation (EEC) No 1785/81 are to be correctly applied, precise definitions are required of production, by an undertaking, of sugar or of isoglucose and of internal consumption of the Community; whereas all the white sugar, raw sugar, invert sugar and syrups or, as the case may be, isoglucose, actually produced by an undertaking should be treated as production of that undertaking; whereas the provision for allocating part of the production of one undertaking to another undertaking which has produced sugar under a contract to make up work should be restricted to specific cases; whereas, without prejudice to circumstances of *force majeure*, such cases must be determined in such a way as to avoid financial consequences in the sugar sector;

Whereas the smooth and efficient application of the quota system in the Community requires that the method for recording production of sugar syrups and of isoglucose be laid down;

Whereas, having regard to the data required for their determination, the production levies provided for in Article 28 of Regulation (EEC) No 1785/81 cannot be fixed until after the end of the marketing year; whereas, however, a large part of the export commitments are made in the second half of the said marketing year; whereas, therefore, in order to implement as soon as possible the financial responsibility of producers a payment in advance of levies calculated on the basis of estimates should be made well before the end of the marketing year; whereas, because the major part of the production of B isoglucose does not, in general, take place until the last months of the marketing year, advance payment of the basic production levy only should be required in respect of isoglucose produced before 1 March of the marketing year in question;

Whereas the levies cannot be fixed or collected until information which is as precise as possible, in particular on consumption, is to hand;

Whereas rules should be laid down for payment of an additional price component for beet where the production levy is less than the maximum amount, and provision should also be made for an additional payment taking account, in particular, of the period between the manufacture of sugar and the date of payment of production levies by the manufacturer;

Whereas, to facilitate proper management of the quota system, the necessary time limits for recording production and for communicating relevant data should be laid down, and provision should be made, as necessary, for appropriate control measures by the Member States; whereas the delay in drawing up the rules for application of the quota system means that they cannot be fully applied, notably in respect of certain time limits for fixing and collecting production levies for the 1981/82 marketing year; whereas, therefore, an appropriate timetable should be laid down;

Whereas the Management Committee for Sugar has not delivered an opinion within the time limit set by its chairman,

(1) OJ No L 177, 1. 7. 1981, p. 4.

(2) OJ No L 74, 18. 3. 1982, p. 1.

(3) OJ No L 47, 23. 2. 1968, p. 1.

(4) OJ No L 67, 14. 3. 1973, p. 12.

HAS ADOPTED THIS REGULATION:

Article 1

1. For the purposes of Articles 26 to 29 of Regulation (EEC) No 1785/81, 'sugar production' means the total quantity, expressed as white sugar, of:

- (a) white sugar;
- (b) raw sugar;
- (c) invert sugar;
- (d) — sucrose or invert sugar syrups which are at least 70 % pure and are produced from sugar beet,
— sucrose or invert sugar syrups which are at least 75 % pure and are produced from sugar cane,
hereinafter called 'syrups'.

2. The following shall, however, be excluded when the quantity referred to in paragraph 1 is being calculated:

- (a) quantities of white sugar produced from:
 - raw sugar, or
 - syrups,
 which were not produced in the undertaking which manufactured such white sugar;
- (b) quantities of white sugar produced from:
 - raw sugar,
 - syrups, or
 - sugar sweepings,
 which were not produced during the marketing year in which such white sugar was manufactured;
- (c) quantities of raw sugar produced from syrups which were not produced in the undertaking which manufactured such raw sugar;
- (d) quantities of raw sugar produced from syrups which were not produced during the marketing year in which such raw sugar was manufactured;
- (e) quantities of raw sugar processed into white sugar during the marketing year in question by the undertaking which produced such raw sugar;
- (f) quantities of invert sugar and syrups processed into alcohol or rum;
- (g) quantities of syrups processed into sugar or invert sugar during the marketing year in question by the undertaking which produced such syrups;
- (h) quantities of syrups for spreading and those to be processed into Rinse Appelstroop;

- (i) quantities of sugar, invert sugar and syrups produced under inward-processing arrangements;
- (j) quantities of invert sugar produced from syrups which were not produced by the undertaking which manufactured such invert sugar;
- (k) quantities of invert sugar produced from syrups which were not produced during the marketing year in which such invert sugar was manufactured.

3. Production shall be expressed in terms of white sugar:

- (a) differences in quality being disregarded, in the case of white sugar production;
- (b) on the basis of yield determined in accordance with Article 1 of Council Regulation (EEC) No 431/68 ⁽¹⁾, in the case of raw sugar production;
- (c) multiplied by the coefficient 1, in the case of invert sugar production;
- (d) on the basis of extractable sugar content determined in accordance with the second subparagraph of paragraph 5, in the case of syrups produced as intermediate products;
- (e) on the basis of sugar content, expressed as sucrose in accordance with Article 13 (1) of Commission Regulation (EEC) No 394/70 ⁽²⁾, in the case of syrups which are not produced as intermediate products.

4. Sugar sweepings from a previous sugar year shall be expressed as white sugar in proportion to the sucrose content.

5. Purity of syrups shall be calculated by dividing the total sugar content by the dry matter content.

The extractable sugar content shall be calculated by subtracting the difference between the dry matter content and the polarimetric reading for that syrup, multiplied by 1.70, from the polarimetric reading for the syrup in question. Dry matter content shall be determined in accordance with the areometric method.

However, where a Member State has made use of the option provided for in the second sentence of the second subparagraph of Article 8 (1) of Commission Regulation (EEC) No 1998/78 ⁽³⁾, the extractable sugar content shall be determined according to the actual yield of the syrups.

⁽¹⁾ OJ No L 89, 10. 4. 1968, p. 3.

⁽²⁾ OJ No L 50, 4. 3. 1970, p. 1.

⁽³⁾ OJ No L 231, 23. 8. 1978, p. 5.

Article 2

For the purposes of Articles 26 to 29 of Regulation (EEC) No 1785/81, 'isoglucose production' means the total quantity of the product obtained from glucose or its polymers with a content by weight in the dry state of at least 10 % fructose :

- (a) irrespective of its fructose content in excess of that limit; and
- (b) expressed as dry matter determined by refractometry.

Article 3

1. Before 15 February of each year Member States shall establish provisional sugar production figures for the current marketing year for each undertaking situated on their territories. For the French departments of Guadeloupe and Martinique this date shall be replaced by 15 May.

2. Before the 15th day of each month each isoglucose-producing undertaking shall communicate to the Member State on whose territory production took place the quantities, expressed as dry matter, actually produced during the preceding calendar month.

On the basis of these communications Member States shall establish, in respect of each month and not later than the 15th day of the second month thereafter, the quantity of isoglucose produced by each undertaking concerned.

In calculating the quantities referred to in the preceding subparagraph the quantities of isoglucose produced under inward-processing arrangements shall not be taken into account.

3. Before 1 October of each year Member States shall establish final figures for sugar and isoglucose production by each undertaking in the preceding marketing year.

4. Where differences are found after the establishment of final production figures for the sugar referred to in paragraph 3, such differences shall be taken into account when final production figures are established for the marketing year in which the differences were found.

Article 4

1. For the purposes of Articles 26 to 29 of Regulation (EEC) No 1785/81 and without prejudice to the following paragraphs, the sugar or isoglucose production of an undertaking means the quantity of sugar or isoglucose actually manufactured by that undertaking.

2. For a given marketing year, total sugar production shall be the production referred to in paragraph 1 plus the quantity carried over to that marketing year and minus the quantity carried over to the following marketing year.

3. If the two manufacturers in question make a signed application to the Member State concerned, the quantity of sugar produced by an undertaking (hereinafter called 'the processor') under contract from materials supplied shall be treated as part of the production of the undertaking (hereinafter called 'the principal') which had the sugar produced under that contract provided that the total sugar production established in accordance with paragraph 2 :

- (a) of the processor is less than this A quota ; or
- (b) of the processor is more than his A quota but less than the sum of his A and B quotas and the principal's total sugar production established in accordance with paragraph 2 is more than his A quota ; or
- (c) of the processor and of the principal is more than the sum of their respective A and B quotas.

4. If the factory of the principal and that of the processor are situated in different Member States, the application referred to in paragraph 3 must be made to the two Member States concerned. In that case the Member States concerned shall act in concert as regards the reply to be given, and shall take the necessary steps to verify that the conditions laid down in paragraph 3 are observed.

5. The quantity of sugar produced by a processor may, in accordance with the procedure laid down in Article 41 of Regulation (EEC) No 1785/81, be considered to be produced by the principal if, owing to a case of *force majeure*, beet, cane or molasses have to be processed into sugar in an undertaking other than that of the principal.

Article 5

1. Before 1 April the following action shall be taken in respect of the current marketing year :

- (a) the basic production levy and B levy for sugar shall be estimated in accordance with Article 28 of Regulation (EEC) No 1785/81 ;
- (b) the unit amounts, determined in accordance with Article 6, to be paid by sugar manufacturers and isoglucose manufacturers as advance payments in respect of the levy shall be fixed in accordance with the procedure laid down in Article 41 of Regulation (EEC) No 1785/81.

2. Before 15 April of the current marketing year Member States shall establish the advance payments to be made by each sugar-producing undertaking and each isoglucose-producing undertaking.

In the case of sugar, the advance payment shall be determined :

- (a) by applying to the provisional production of A and B sugar, determined pursuant to Article 3 (1), the unit amount fixed for the advance payment in respect of the basic production levy; and
- (b) by applying to the provisional production of B sugar, determined pursuant to Article 3 (1), the unit amount fixed for the advance payment in respect of the B levy.

In the case of isoglucose, the advance payment shall be determined by applying to the production between 1 July and the end of the following February for the current marketing year the unit amount fixed for the advance payment in respect of the basic production levy on isoglucose.

3. Member States shall collect these advance payments before 1 May following.

4. For sugar manufacturers in the French departments of Guadeloupe and Martinique the dates '15 April' and '1 May' in paragraphs 2 and 3 shall be replaced by '15 August' and '1 September' respectively.

5. For the purposes of determining the quantity referred to in Article 28 (1) (b) of Regulation (EEC) No 1785/81, there shall be subtracted from the sum of :

- (a) the quantities of sugar and isoglucose disposed of for consumption within the Community either directly or after processing by the user industries; and
- (b) the quantities of denatured sugar; and
- (c) the quantities of sugar and isoglucose imported from non-member countries as processed products;

the quantities of sugar and isoglucose exported to non-member countries as processed products.

The following shall be regarded within the meaning of Article 28 (1) (d) of Regulation (EEC) No 1785/81 as export obligations to be fulfilled during the current marketing year :

- (a) all quantities of sugar to be exported in the natural state with export levies or refunds fixed by means

of tenders opened in respect of the said marketing year;

- (b) all quantities of sugar and isoglucose to be exported in the natural state with export refunds or levies fixed periodically on the basis of export licences issued during the said marketing year;
- (c) all foreseeable exports of sugar and isoglucose in the form of processed products with refunds or levies fixed for that purpose during the said marketing year, such quantities being spread evenly over the marketing year.

Article 6

1. Where the estimate of the basic production levy on sugar is :

- (a) at least 60 % of the maximum amount referred to in Article 28 (3) of Regulation (EEC) No 1785/81, the unit amount of the advance payment shall be 50 % of the said maximum amount;
- (b) less than 60 % of the abovementioned maximum amount, the unit amount of the advance payment shall be 80 % of the said estimate.

2. The rule laid down in paragraph 1 shall also apply for determining the unit amount of the advance payment in respect of the B levy on sugar, taking into account the maximum amount referred to in Article 28 (4) or (5) of Regulation (EEC) No 1785/81.

3. The unit amount of the advance payment in respect of the basic production levy on isoglucose shall be 40 % of the unit amount of the estimated basic production levy on sugar in accordance with Article 5 (1) (a).

Article 7

1. The basic production levy and the B levy on sugar and isoglucose shall be fixed before 1 November in respect of the preceding marketing year in accordance with the procedure laid down in Article 41 of Regulation (EEC) No 1785/81.

2. Before 15 December in respect of the preceding marketing year and taking into account the advance payments collected pursuant to Article 5, Member States shall determine the balances of the levies outstanding in the case of each sugar-producing undertaking and each isoglucose-producing undertaking.

Balances due from the undertaking or from the Member State shall be paid before 15 January following.

Article 8

1. The amounts referred to in Article 29 (2) of Regulation (EEC) No 1785/81 shall be fixed at the same time as the levies referred to in Article 7 (1) and in accordance with the same procedure.

2. Where the price paid by the sugar manufacturer to the beet seller is lower than the basic price for beet, the manufacturer shall, to the extent of the difference in question, allow the beet seller a share of the reimbursement of storage costs as referred to in Article 8 of Regulation (EEC) No 1785/81 and/or of the increased value of the sugar in the light of the intervention price.

For the purpose of calculating the share in question the manufacturer shall take into account:

- (a) the periods between the manufacture of the sugar and the dates laid down for the advance payments and payments of the balances in respect of the production levies;
- (b) the proportion of financial costs used for calculating the amount of the storage costs to be reimbursed;
- (c) the percentage laid down in Article 29 (2) of Regulation (EEC) No 1785/81;
- (d) the yield of the beet in question, without prejudice to Article 6 (1) of Regulation (EEC) No 1785/81.

3. The amount referred to in paragraph 1 and the share referred to in paragraph 2 shall be paid to the beet seller by the sugar manufacturer within four

weeks following the date on which the levies referred to in Article 7 (1) are fixed.

4. The provisions of paragraphs 2 and 3 may be derogated from, under an inter-trade agreement.

Article 9

Member States shall take all the measures necessary to establish the controls required for recording production of the products covered by this Regulation.

Article 10

For the 1981/82 marketing year, the date laid down in Article 5:

- (a) paragraph 1, is replaced by '1 July 1982';
- (b) the first subparagraph of paragraph 2, is replaced by '15 July 1982';
- (c) paragraph 3, is replaced by '1 August 1982'.

Article 11

1. Regulation (EEC) No 700/73 is hereby repealed.
2. References to Regulation (EEC) No 700/73 in any Community instruments shall be construed as references to the corresponding Articles of this Regulation.
3. This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.
4. Article 2 shall apply from the 1982/83 marketing year.

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

Done at Brussels, 8 June 1982.

For the Commission

Poul DALSAER

Member of the Commission
