

COMMISSION REGULATION (EEC) No 3264/91

of 8 November 1991

laying down detailed rules for the granting of the marketing premium for raw preferential cane sugar refined into white sugar in the Community

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 Commission Regulation (EEC) No 464/91⁽²⁾, and in particular Article 37 (2) and the second paragraph of Article 39 thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 843/91⁽⁴⁾, and in particular Article 12 thereof,

Whereas Council Regulation (EEC) No 1719/91⁽⁵⁾ lays down that during the 1989/90, 1990/91 and 1991/92 marketing years a marketing premium, hereinafter called the 'premium', is to be paid, under certain conditions and as an intervention measure, for the import of raw preferential cane sugar refined into white sugar during that period in the refineries referred to in the third subparagraph of Article 9 (4) of Regulation (EEC) No 1785/81;

Whereas the quantity of imported raw sugar eligible for the premium and the level of that premium must be fixed for each marketing year by country of origin and by country of import; whereas, therefore, the information on imports to be communicated by Member States to the Commission in accordance with Commission Regulation (EEC) No 787/83⁽⁶⁾, as last amended by Regulation (EEC) No 3819/85⁽⁷⁾, should be used and account taken, in particular, of the applicable agreed quantity for each country producing the imported raw preferential sugar as defined in Article 2 of Commission Regulation (EEC) No 2782/76⁽⁸⁾, as last amended by Regulation (EEC) No 1714/88⁽⁹⁾;

Whereas the two conditions laid down by Regulation (EEC) No 1719/91 for the granting of the premium are that it is to be reassigned to the producer of the preferential sugar and that the sugar concerned must be refined

within the Community; whereas to this end and to enable payment of the premium to be made as quickly as possible, the lodging of a security equivalent to the premium to be paid must be provided for;

Whereas the refining of these sugars can take place after the end of the marketing year concerned by virtue of their production region of origin; whereas an additional period for the performance of this operation should therefore be provided for;

Whereas, for conversion of the premium into national currency, an average agricultural conversion rate calculated pro rata temporis on the basis of the rates applicable during the marketing year concerned should be used;

Whereas, pursuant to Regulation (EEC) No 1719/91, the premium may be granted from 1 July 1989; whereas, furthermore, it may be granted only once the information relating to the marketing year is known, that is to say after the end of the marketing year concerned; whereas, provision should therefore be made for the relevant detailed rules of application to be applied retrospectively to that date;

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 quantity of preferential sugar, expressed as white sugar, eligible for the premium shall be fixed after each of the marketing years 1989/90, 1990/91 and 1991/92, for each producer country of origin of the refined preferential sugar and for each Member State of refining. The level of the premium shall be fixed at the same time as the above quantity.
2. The quantity referred to in paragraph 1 shall be established taking account of:
 - (a) the information referred to in Article 8 (3) of Regulation (EEC) No 787/83;
 - (b) the applicable agreed quantity of the exporter State for the marketing year concerned as defined in Article 2 of Regulation (EEC) No 2782/76, and the application of Articles 4 and 5 of that Regulation together with the adjustments referred to in Article 7 (2) of Protocol 86 to the Fourth Lomé Convention;

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 54, 28. 2. 1991, p. 22.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 85, 5. 4. 1991, p. 26.

⁽⁵⁾ OJ No L 162, 26. 6. 1991, p. 25.

⁽⁶⁾ OJ No L 88, 6. 4. 1983, p. 6.

⁽⁷⁾ OJ No L 368, 31. 12. 1985, p. 25.

⁽⁸⁾ OJ No L 318, 18. 11. 1976, p. 13.

⁽⁹⁾ OJ No L 152, 18. 6. 1988, p. 23.

(c) the deductions for the quantities of raw sugar which were not refined, to be notified to Commission by the Member States concerned for the marketing year in question.

3. The level of the premium to be fixed per 100 kilograms of sugar expressed as white sugar shall be calculated within the limit of the total appropriation laid down by the budget for the marketing year concerned.

Article 2

1. The premium shall be paid to the refiner by the Member State in whose territory the preferential sugar is refined.

2. For payment of the premium and without prejudice to the proof of importation of the raw sugar to be provided in accordance with Regulation (EEC) No 2782/76, the refiner must submit, upon risk of foreclosure, within the two months following the fixing of the quantities and amount referred to in Article 1 (1), a written application for payment of the premium to the Member State referred to in paragraph 1 of this Article.

This application shall be accepted only if accompanied by:

- (a) proof, to the satisfaction of the Member State concerned, of purchase by the refiner of the raw sugar imported for refining;
- (b) a written undertaking by the refiner to reassign the premium paid for the refined raw sugar to the producer of the raw sugar in question or to the authorized agent designated by the producer;
- (c) proof of the lodging of a security equal to the amount of the premium to be paid for the quantity of sugar concerned expressed as white sugar. This security shall be lodged in favour of the Member State referred to in paragraph 1 after the competent authority of the Member State has accepted that an equivalent quantity of preferential raw sugar has been refined at the latest

within the six months following the end of the marketing year concerned.

3. Except in cases of *force majeure*, the security referred to in paragraph 2 (c) shall be released only for the quantity for which the beneficiary provides proof, to the satisfaction of the Member State concerned, that he has reassigned to the producer or to the authorized agent designated by the producer the corresponding premium within the months following the payment of the premium.

The security shall be forfeit for the quantity of sugar for which the relevant obligations have not been fulfilled.

In cases of *force majeure*, the competent authority of the Member State concerned shall adopt the measures it considers necessary according to the circumstances invoked by the refiner.

4. The premium shall be paid at the latest by the end of the month following that during which the application is deemed admissible by the Member State concerned.

Article 3

For the payment of the amount of the relevant premium in national currency by the Member State of refining, the agricultural conversion rate to be used shall be equal to the average, calculated *pro rata temporis*, of the agricultural conversion rates applicable during the marketing year in respect of which the amount of the premium has been fixed.

Article 4

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

It shall apply from 1 July 1989.

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

Done at Brussels, 8 November 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission