

REGULATION (EEC) No 766/68 OF THE COUNCIL

of 18 June 1968

laying down general rules for granting export refunds on sugar

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 1009/67/EEC¹ of 18 December 1967 on the common organisation of the market in sugar, and in particular Article 17 (2) and (3) thereof;

Having regard to the proposal from the Commission;

Whereas paragraphs 2 and 3 of Article 17 of Regulation No 1009/67/EEC provide for the adoption by the Council of general rules for granting export refunds on the products listed in Article 1 (1) (a), (c) and (d) of that Regulation;

Whereas, to prevent a denaturing premium and an export refund being granted on the same sugar, denatured sugar should be ineligible for a refund;

Whereas the last subparagraph of Article 17 (2) of that Regulation provides that the refund must be fixed at regular intervals; whereas these intervals must be determined in the light of conditions existing on the market in the product in question and the trade's interest in a certain degree of stability in the refund; whereas, in view of this interest, minimum variations permitting an alteration in the refund should be specified;

Whereas, however, the periodic fixing of refunds should take place only when sugar is available for export;

Whereas, when the amount of the refund is being calculated, account should be taken of the difference between the level of prices within the Community and quotations or prices on the world market; whereas the intervention price for the Community area with the largest surplus should be regarded as the price for white sugar in the Community and the

intervention price for the exporting area considered to be representative should be regarded as the price for raw sugar in the Community; whereas, to make exportation possible, all costs necessarily incurred in connection with exportation must be taken into account;

Whereas, to ensure that the tendering system is uniformly applied by the competent authorities of Member States, the conditions governing this system must be determined in accordance with the procedure laid down in Article 40 of Regulation No 1009/67/EEC;

Whereas, to make it easier for the trade to make its arrangements, a decision on tenders submitted must be reached as quickly as possible;

Whereas it would be in line with the purpose of the invitation to tender to fix, in the light of the tenders submitted and of certain criteria, a maximum amount of the refund and, where appropriate, a maximum tonnage for export and to specify that tenders which are higher than this maximum amount will be rejected;

Whereas the special nature of the tendering procedure makes it possible to vary the refunds;

Whereas, in individual cases where sugar may be exported on preferential terms, provision should be made for a special invitation to tender which specifies a special maximum amount for the refund and imposes no time limit for the submission of tenders;

Whereas, to ensure that exports are effected, it is important to prevent tenders submitted in response to an invitation from being withdrawn; whereas for this reason submission of a tender must be made subject to the lodging of a deposit;

Whereas the refund for raw sugar should be fixed for the standard quality defined in Article 1 of Council Regulation (EEC) No 431/68² of 9 April

¹ OJ No 308, 18.12.1967, p. 1.

² OJ No L 89, 10.4.1968, p. 3.

1968 fixing the standard quality for raw sugar and the Community frontier crossing point for calculating c.i.f. prices for sugar; whereas, pursuant to the third subparagraph of Article 17 (2) of Regulation No 1009/67/EEC, the refund on raw sugar may not exceed 92% of the refund on white sugar fixed for the period in question or specified in the form of a maximum amount in connection with a normal invitation to tender; whereas, to avoid distortions of competition, the refund on raw sugar with a yield other than 92% must be adjusted in the light of its actual yield;

Whereas, since no representative quotations are available within the Community for the price of molasses, the price to be used in calculating the refund on this product should be the price used pursuant to Article 4 (2) of Regulation No 1009/67/EEC to determine receipts from the sale of molasses for the marketing year in question; whereas, to make it possible to dispose of molasses on the world market, the price situation and potential outlets within the Community and on third country markets must be taken into account when the refund is being calculated;

Whereas, since the supply situation varies considerably from region to region within the Community, provision should be made for fixing the refund on molasses by means of invitations to tender for specific quantities and specific areas;

Whereas the intervention price for white sugar applicable in the Community area with the largest surplus and quotations for white sugar on the Paris Bourse should be used as the basis for calculating the refund on the products listed in Article 1 (1) (d) of Regulation No 1009/67/EEC; whereas since the sucrose content of these products varies, the refund should be fixed as a basic amount per 1% of sucrose content;

Whereas, since Council Regulation (EEC) No 765/68¹ of 18 June 1968 laying down general rules for the production refund on sugar used in the chemical industry provides for a production refund to be granted on sorbose, the export refund on sorbose should be calculated on the basis of a price for white sugar less the amount of the production refund;

Whereas, so as to comply with normal practice in the sugar trade, provision should be made by means of refunds to facilitate transactions effected on the basis of refunds applicable on the day of exportation as well as transactions effected during the validity of the export licence on the basis of a refund fixed in advance;

Whereas for economic reasons provision should be made for an adjustment when alterations are made, between the time the refund is fixed and the time exportation is effected, to the intervention prices used in calculating the refunds on the products listed in Article 1 (1) (a) and (c) of Regulation No 1009/67/EEC or to the price for molasses referred to above;

Whereas, to ensure a steady flow of exports, provision should be made under certain conditions for the refund to be varied according to destination;

Whereas, to avoid distortions of competition between individual Community traders, the administrative conditions under which they operate must be identical throughout the Community;

Whereas since the Community has a sugar surplus, no refund should be granted on sugar and molasses obtained from raw materials imported from third countries or on products listed in Article 1 (1) (d) of Regulation No 1009/67/EEC which are imported from third countries;

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation governs the fixing and granting of the export refund on the products listed in Article 1 (1) (a), (c) and (d) of Regulation No 1009/67/EEC, not denatured and exported in the natural state.

Article 2

1. The refund on the products listed in Article 1 (1) (a) of Regulation No 1009/67/EEC shall be fixed every two weeks, subject to the provisions of paragraph 2 of this Article.

2. This periodic fixing may be discontinued in accordance with the procedure laid down in Article 40 of Regulation No 1009/67/EEC if it is found that no surplus sugar is available within the Community for export on the basis of world market prices. In this event, without prejudice to the provisions of Article 11 (2), no refund shall be granted.

Article 3

When the refund on products referred to in Article 2 is being fixed, the situation on the Community and world markets in sugar, and in particular the following, shall be taken into account:

(a) the intervention price for white sugar for the Community area with the largest surplus or the intervention price for raw sugar for the Community area which is considered to be representative for the exportation of this type of sugar;

¹ OJ No L 143, 25.6.1968, p. 1.

- (b) the costs of transporting sugar from the areas referred to in (a) to ports or other points of export in the Community;
- (c) trade expenses and any trans-shipment, transport and packaging charges incurred in marketing sugar on the world market;
- (d) quotations or prices recorded for sugar on the world market; and
- (e) the economic aspect of the proposed exports.

Article 4

1. The refund on the products listed in Article 1 (1) (a) of Regulation No 1009/67/EEC may be fixed by tender. The purpose of the tender shall be to determine the amount of the refund.

2. The competent authorities of the Member States shall invite tenders in accordance with an instrument binding in law in all Member States. This instrument shall lay down the terms of the invitation to tender. These terms must guarantee equal access for all persons established within the Community.

3. The terms of the invitation to tender shall include a time limit for the submission of tenders. The maximum amount of the refund for the invitation in question shall be fixed in accordance with the procedure laid down in Article 40 of Regulation No 1009/67/EEC within three working days following the expiry of the time limit and in the light of the tenders received. When the maximum amount is being calculated, account shall be taken of the supply situation and prices within the Community, prices and potential outlets on the world market and costs incurred in exporting sugar.

A maximum tonnage may be fixed in accordance with the same procedure.

4. Where exports can be effected on the basis of a refund which is lower than that which would result from taking the difference between prices within the Community and prices on the world market into account and where exports are for a specific destination, the competent authorities of the Member States may be required to issue a special invitation to tender, the terms of which shall include:

- (a) the possibility of submitting tenders at any time until the tendering procedure is terminated; and
- (b) a maximum amount of the refund, calculated in the light of requirements for the exports in question.

5. If the amount of the refund shown in a tender exceeds the maximum fixed, the competent authorities of the Member States shall reject that tender. If the amount of the refund shown in a tender does not exceed the maximum, those authorities shall fix

the refund at an amount equal to the refund appearing in the tender in question.

Article 5

1. The refund on raw sugar shall be fixed for the standard quality defined in Article 1 of Regulation (EEC) No 431/68.

2. The refund fixed for raw sugar pursuant to Article 3 may not exceed 92% of the refund for white sugar fixed for the same period. The maximum amount fixed for raw sugar pursuant to Article 4 (3) may not exceed 92% of the maximum amount fixed at the same time for white sugar pursuant to that paragraph.

3. The export refund on raw sugar shall be equal to the refund applicable to the export transaction in question multiplied by a conversion factor.

The conversion factor shall be obtained by dividing the yield of the raw sugar exported, calculated in accordance with the provisions of Article 1 of Regulation (EEC) No 431/68, by 92.

Article 6

1. The refund on the products listed in Article 1 (1) (c) of Regulation No 1009/67/EEC shall be fixed each month, account being taken of:

- (a) the price of molasses used to determine receipts from the sale of molasses for the sugar year in question pursuant to Article 4 (2) of Regulation No 1009/67/EEC;
- (b) prices and potential outlets for molasses on the Community market;
- (c) quotations or prices recorded for molasses on the world market; and
- (d) the economic aspect of the proposed exports.

2. In special circumstances the amount of the refund may be fixed by tender for specific quantities and specific areas of the Community. The purpose of the tender shall be to determine the amount of the refund.

The competent authorities of the Member States concerned shall invite tenders on the basis of an authorisation laying down the terms of the invitation to tender. These terms must guarantee equal access for all persons established within the Community.

Article 7

1. The basic amount of the refund shall be fixed each month for the products listed in Article 1 (1) (d) of Regulation No 1009/67/EEC.

2. The basic amount for the products referred to in paragraph 1, with the exception of sorbose, shall

be equal to one-hundredth of the difference between the intervention price for white sugar for the Community area with the largest surplus for the month for which the basic amount is fixed, and the arithmetic mean of spot prices for 100 kg of white sugar quoted on the Paris Bourse during the first twenty days the month preceding that for which the basic amount is fixed.

Until 31 January 1972, the basic amount for sorbose shall be equal to one hundredth of the difference between the amount referred to in Article 5 (1) of Regulation (EEC) No 765/68, adjusted where appropriate pursuant to paragraph 2 of that Article, and the arithmetic mean referred to above.

3. The basic amount may, however, be fixed otherwise than in accordance with the provisions of the first subparagraph of paragraph 2 where necessary in order to establish a balance between:

- the use of Community basic products in the manufacture of processed goods for export to third countries, and
- the use of third country products brought in under inward processing arrangements.

4. At the time of the monthly fixing of the basic amount of the refund, no alteration shall be made unless the difference referred to in paragraph 2 is more than 0.40 units of account higher or lower than the difference taken into account when the basic amount was last fixed.

The basic amount of the refund may not be altered between monthly fixings unless the difference between the intervention price referred to in the first subparagraph of paragraph 2, or the amount referred to in the second subparagraph of that paragraph as the case may be, and the spot price for 100 kilogrammes of white sugar on the Paris Bourse is more than one unit of account higher or lower than the difference taken into account when the basic amount was last fixed.

5. The application of the basic amount may be limited to some of the products listed in Article 1 (1) (d) of Regulation No 1009/67/EEC.

Article 8

1. The export refund on 100 kilogrammes of the products listed in Article 1 (1) (d) of Regulation No 1009/67/EEC shall be equal to the basic amount for the month in which the product in question is exported, multiplied by the sucrose content determined for the product in question including, where appropriate, other sugars expressed as sucrose.

2. The sucrose content may be fixed at a standard amount.

Article 9

Tenders submitted in response to an invitation shall not be considered unless a deposit is lodged.

The deposit shall be forfeited in whole or in part if tenderers have not fulfilled, or have only partially fulfilled, the obligations placed upon them.

Article 10

The refund fixed by tender shall be valid for the same period as the export licence.

Article 11

1. If the refund is not fixed by tender, the amount of the refund or the basic amount of the refund in force on the day of exportation shall be applied.

2. However, if the applicant so requests when applying for an export licence, the amount of the refund or the basic amount of the refund in force on the day on which the application is lodged shall be applied to an export transaction effected during the validity of the licence.

Article 12

If between the time the refund is fixed, either by tender or pursuant to Article 11 (2), and the time exportation is effected an alteration is made to:

- (a) the intervention price for white sugar and raw beet sugar valid for the Community area with the largest surplus, or
- (b) the intervention price for raw cane sugar, or
- (c) the price for molasses referred to in Article 6 (1) (a),

the refund shall be adjusted on the basis of such alteration.

Article 13

Where the world market situation or the specific requirements of certain markets make this necessary, the refund for the Community on the products listed in Article 1 (1) (a) of Regulation No 1009/67/EEC may be varied according to destination.

Article 14

1. The refund shall be paid upon proof that the products have been exported from the Community.

2. Where the refund is varied according to destination, the refund shall be paid under the conditions laid down in paragraph 1 of this Article, provided it is proved that the product has reached the destination for which the refund was fixed. Exceptions may be made to this rule in accordance with the procedure

referred to in paragraph 3 of this Article, provided conditions are laid down which offer equivalent guarantees.

3. Additional provisions may be adopted in accordance with the procedure laid down in Article 40 of Regulation No 1009/67/EEC.

Article 15

1. No export refund shall be granted on the products listed in Article 1 (1) (a) and (c) of Regulation No 1009/67/EEC unless they have been produced

from sugar beet or sugar cane harvested within the Community.

2. No export refund shall be granted on the products listed in Article 1 (1) (d) of Regulation No 1009/67/EEC which are not of Community origin.

Article 16

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 1968.

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

Done at Luxembourg, 18 June 1968.

For the Council

The President

E. FAURE
