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REGULATION (EEC) No 142/69 OF THE COMMISSION

of 25 January 1969

laying down certain detailed rules for the application of the quota system for sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 1009/67/EEC[1] of 18 December 1967 on the common organisation of the market in sugar, as amended by Regulation (EEC) No 2100/68,[2] and in particular Articles 25 (3), 27 (5), 32 (4) and 38 thereof;

Whereas if the provisions relating to the quota system for sugar, and in particular Articles 25, 27 and 32, are to be correctly applied, 'the sugar production of a factory or undertaking' must be precisely defined; whereas all the white sugar, raw sugar, invert sugar and syrups expressed as white sugar actually produced in a factory or undertaking should be treated as the production of the factory or undertaking concerned; whereas, in the interests of limiting sugar production, the possibility of allocating part of one undertaking's production to another undertaking which has had that sugar produced under a contract to make up work from material supplied should be restricted to specific cases; whereas these cases must be determined in such a way as to avoid increasing the Community's financial burden in the sugar sector; whereas, despite this general rule, provision should be made for the same allocation in cases of *force majeure;* whereas, in order to ensure equal treatment of the manufacturers concerned within the Community, the application of such cases should be decided in accordance with the procedure laid down in Article 40 of Regulation No 1009/67/EEC;

Whereas, to make it possible in particular to apply the provisions relating to the production levy, provisional and definitive production figures should be established;

Whereas the production levy provided for in Article 27 of Regulation No 1009/67/EEC can only be calculated after the end of the marketing year concerned; whereas the sugar in question is largely disposed of during the marketing year in which it is produced; whereas provision should therefore be made for the production levy to be paid during the marketing year in which it is produced within time limits which would be the same for the whole Community; whereas a provisional amount of the levy must be fixed to this end;

Whereas it is reasonable that the Community should bear the losses involved in disposal under the most favourable conditions since the Community is already responsible for all expenses incurred in disposing of quantities produced in excess of domestic consumption up to the level of the guaranteed quantity;

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. For the purposes of Article 25, 27 and 32 of Regulation No 1009/67/EEC, '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'.

[1] OJ No 308, 18.12.1967, p. 1.
[2] OJ No L 309, 24.12.1968, p. 4.

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 factory or undertaking which manufactured such white sugar;

(b) quantities of white sugar produced from:

— raw sugar or

— syrups

which were not produced during the marketing year in which white sugar was manufactured;

(c) quantities of raw sugar produced from syrups which were not produced in the factory or 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 factory or 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 factory or undertaking which produced such syrups;

(h) quantities of syrups in treacle form 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 factory or 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] of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating c.i.f. prices for sugar, 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 provisions of the second subparagraph of paragraph 4 of this Article, in the case of syrups produced prior to the crystallising stage;

(e) on the basis of their content expressed in sucrose in accordance with Article 10 of Commission Regulation (EEC) No 839/68[2] of 28 June 1968 on detailed rules for the application of export refunds on sugar, in the case of syrups which are not produced prior to the crystallising stage.

4. Purity of syrups shall be calculated by dividing the total sugar content by the content of extractable sugar.

The extractable 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.

Article 2

1. Between 15 and 31 January of each year each Member State shall establish provisional sugar production figures for the current marketing year for each factory and undertaking situated on its territory. For the French departments of Guadeloupe and Martinique these dates shall be replaced by 15 and 30 April.

2. Before 15 September of each year each Member State shall establish definitive figures for sugar production in the preceding marketing year as at midnight on 30 June for each factory or undertaking situated on its territory.

3. Where the production figures established pursuant to paragraph 2 are lower than those established pursuant to paragraph 1, the quantity carried forward pursuant to Article 32 of Regulation No 1009/67/EEC shall be adjusted by the Member State concerned at the request of the individual

[1] OJ No L 89, 10.4.1968, p. 3.
[2] OJ No L 151, 30.6.1968, p. 47.

manufacturer within the limits of the difference recorded. This adjustment will be retroactive to the date on which the storage period referred to in that Article began.

4. Where the production figures established pursuant to paragraph 2 differ from those established pursuant to paragraph 1, and where the manufacturer has paid or should have paid a production levy in respect of that difference, the Member State shall make a retroactive adjustment to the quantities subject to the production levy.

Article 3

1. For the purposes of Articles 25, 27 and 32 of Regulation No 1009/67/EEC, 'the sugar production of a factory or undertaking' means the quantity of sugar actually manufactured by that factory or by the factory or factories of that undertaking as the case may be.

2. If, however, the two manufacturers in question make a written application to the Member State concerned, the quantity of sugar produced by an undertaking (hereinafter called 'the processor') under a contract to make up work 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:

(a) where, for reasons of *force majeure,* the beet, cane or molasses has to be processed into sugar in an undertaking other than that of the principal; or

(b) where the proccessor's total sugar production is lower than his basic quota; or

(c) where the processor's total sugar production is higher than his basic quota but lower than his maximum quota and where the principal's total sugar production is higher than the basic quota; or

(d) where the processor's total sugar production and the principal's total sugar production are higher than their respective maximum quotas.

3. Any sugar manufacturer wishing to invoke the provisions of paragraph 2 (a) shall immediately notify the Member State concerned giving the information necessary in support of his application. The Member State shall check such information. The Member State shall immediately transmit the information supplied by the manufacturer and the results of its inquiries to the Commission.

4. By way of derogation from the provisions of paragraphs 1 to 3, the production of a factory or undertaking shall be calculated for the 1968/69 marketing year in each Member State in accordance with the criteria used by that Member State at the time of calculating the average annual sugar production of the factories or undertakings referred to in Article 23 of Regulation No 1009/67/EEC.

Article 4

1. Before 1 January each year a provisional amount of the production levy shall be fixed for that year. It shall be fixed before 1 March 1969 for the 1968/69 marketing year.

2. The provisional amount of the production levy shall be calculated for the relevant marketing year on the basis of:

(a) estimated sugar production in the Community,

(b) estimated production in excess of the maximum quotas,

(c) an estimate of quantities produced within the maximum quotas to be carried forward to the following marketing year,

(d) the guaranteed quantity,

(e) the sum of the basic quotas,

(f) a standard amount per unit of weight to compensate for losses incurred in disposing of sugar produced in excess of the guaranteed quantity.

Article 5

1. Member States shall collect from each sugar manufacturer whose production is in excess of his basic quota in respect of that part of his production in excess of his basic quota but within his maximum quota which is not carried forward pursuant to Article 32 of Regulation No 1009/67/EEC:

(a) before 1 April of the relevant marketing year, the provisional amount of the production levy multiplied by 0·4;

(b) before the following 15 May, the provisional amount of the production levy multiplied by 0·3;

(c) before the following 1 July, the provisional amount of the production levy multiplied by 0·3.

2. The following dates shall however be substituted in respect of manufacturers in the French departments of Guadeloupe and Martinique:

(a) 1 October shall be substituted for 1 April;

(b) 15 November shall be substituted for 15 May;

(c) 1 January shall be substituted for 1 July.

3. Where the final amount of the production levy differs from the provisional amount, Member States shall collect or refund the difference before the end of the second month following the entry into force of the Regulation which fixes the final amount of the production levy.

4. Where the maximum quota is fixed pursuant to the provisions of Article 31 of Regulation No 1009/67/EEC later than 1 April of the relevant marketing year, that portion of the production levy collected pursuant to paragraph 1 of this Article on production which, by reason of the Member State's decision exceeds the maximum quota, shall be immediately reimbursed by that Member State.

Article 6

1. The final amount of the production levy valid for a given marketing year shall be fixed before 1 January of the following marketing year.

2. Overall losses incurred in disposing of the quantity produced in the Community in excess of the guaranted quantity shall be calculated on the basis of:

(a) total sugar production in the Community during the marketing year in question, expressed as white sugar, minus:

— the guaranteed quantity valid for that marketing year,

— quantities produced in excess of the maximum quotas,

— quantities within the maximum quota carried forward pursuant to Article 32 of Regulation No 1009/67/EEC; and

(b) a standard amount per unit of weight to compensate losses incurred in disposing of that sugar.

This standard amount shall be calculated on the basis of a weighted average of losses incurred in disposing of sugar during that marketing year; losses incurred in disposing, under the most favourable conditions, of a quantity equal to the difference between the guaranteed quantity and the quantity disposed of for human consumption within the Community during the same marketing year shall be excluded.

Article 7

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

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

Done at Brussels, 25 January 1969.

For the Commission

The President

Jean REY