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REGULATION (EEC) No 226/72 OF THE COUNCIL

of 31 January 1972

laying down conditions for applying protective measures in the market in 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/EEC[1] of 18 December 1967 on the common organization of the market in sugar, as last amended by Regulation (EEC) No 2727/71,[2] and in particular the second subparagraph of Article 21 (1) thereof;

Having regard to the proposal from the Commission;

Whereas Article 21 (1) of Regulation No 1009/67/EEC makes provision for the application of appropriate measures if, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 thereof experiences or is threatened with serious disturbances which may endanger the objectives set out in Article 39 of the Treaty, whereas these measures relate to trade with third countries, whereas they will no longer apply when the disturbance or threat of disturbance has ceased;

Whereas it is for the Council to adopt detailed rules for the application of Article 21 (1) of that Regulation and define the cases in which and the limits within which Member States may take interim protective measures;

Whereas, therefore, the main factors to be used in assessing whether the Community market is seriously disturbed or threatened with disturbance should be determined;

Whereas, since recourse to protective measures depends on the effect on the Community market of trade with third countries, the situation on this market must be assessed by taking account not only of the factors peculiar to the market itself but also of the factors connected with the development of that trade;

Whereas the measures which may be taken in application of Article 21 of Regulation No 1009/67/EEC should be defined; whereas those measures must be such as to put an end to serious disturbances on the market and the threat of such disturbances; whereas they must be suited to the circumstances if they are not to have other than the desired effects;

Whereas the organization of the market in sugar includes a system of licences and, for certain products, a system of fixing levies and refunds in advance; whereas in view of the existence of these systems rules should be laid down whereby protective measures at Community level can be decided upon after a summary examination of the situation;

Whereas recourse by a Member State to Article 21 of Regulation No 1009/67/EEC should be limited to a case in which the market of that State, following an assessment based on the abovementioned factors, is regarded as fulfilling the conditions of that Article; whereas the measures which may be taken in that case should be designed to prevent the market situation from deteriorating further; whereas, however, they must be of an interim nature; whereas, in view of this interim nature of national measures, they should be applied only until the entry into force of a Community decision on the subject;

Whereas the Commission is required to take a decision on Community protective measures to be applied in response to a request from a Member State within twenty-four hours following receipt of the request; whereas, in order that the Commission may assess the situation on the market correctly, provision should be made to ensure that it is informed as quickly as possible of any protective measures applied by a Member State; whereas, therefore, provision should be made for the Commission to be

[1] OJ No 308, 18.12.1967, p. 1.
[2] OJ No L 282, 23.12.1971, p. 8.

notified of any such measures as soon as they have been adopted and for such notification to be treated as a request within the meaning of Article 21 (2) of Regulation No 1009/67/EEC;

HAS ADOPTED THIS REGULATION:

Article 1

In order to assess whether the Community market in one or more of the products listed in Article 1 (1) of Regulation No 1009/67/EEC is, by reason of imports or exports, experiencing or threatened with serious disturbances which may endanger the objectives set out in Article 39 of the Treaty, particular account shall be taken of:

(a) the quantities of products for which import or export licences have been issued or applied for;

(b) the quantities of products available on the Community market;

(c) the prices recorded on the Community market or the foreseeable trend of these prices and in particular any excessive upward trend thereof or, in the case of products for which intervention prices are not fixed, any excessive downward trend thereof;

(d) the quantities of products for which intervention measures have been taken or may need to be taken.

Article 2

1. The measures which may be taken should the situation mentioned in Article 21 (1) of Regulation No 1009/67/EEC arise shall be:

(a) the total or partial suspension of the issue of import or export licences, entailing the refusal of fresh applications;

(b) the total or partial rejection of outstanding applications for the issue of import or export licences;

(c) for products subject to the system of advance fixing of levies or refunds:

(aa) the total or partial suspension of the advance fixing of levies or refunds, entailing the refusal of fresh applications;

(bb) the total or partial rejection of outstanding applications for the advance fixing of levies or refunds and for the issue of certificates.

2. The measures specified in paragraph 1 may only be taken to such extent and for such length of time as is strictly necessary. They may not extend to products other than those imported from or intended for third countries. They may be restricted to products imported from or originating in particular countries, to exports to particular countries or to particular qualities or types of packaging. They may be restricted to imports intended for particular regions of the Community or to exports from such regions.

3. The rejection of applications mentioned in paragraph 1 shall apply to those submitted during the periods in which the suspensions mentioned in Article 3 or Article 4 have been in force.

However, if as a result of unexpected circumstances there is or is likely to be a variation in prices such that it is clear that the levy or refund no longer fulfils its purpose, the rejection may relate to applications submitted from the time when such circumstances become apparent.

Article 3

After a summary examination of the situation based on the factors set out in Article 1, the Commission may establish by decision that the conditions for applying Article 21 (2) of Regulation No 1009/67/EEC are fulfilled. The Commission shall notify Member States of its decision and shall publish it on a notice-board at its headquarters.

The consequence of that decision for the products in question shall be the temporary suspension of the advance fixing of levies or refunds and of the issue of licences from the time fixed for the purpose, that time being subsequent to the notification.

The decision shall apply for not more than forty-eight hours, without prejudice to the provisions of the second sentence of Article 21 (2) of Regulation No 1009/67/EEC.

Article 4

1. A Member State may take one or more protective measures if, after an assessment based on the factors set out in Article 1, it considers that the situation foreseen in Article 21 (1) of Regulation No 1009/67/EEC has arisen in its own territory.

The protective measures shall consist of:

(a) the total or partial suspension of the issue of import or export licences;

(b) for products subject to the system of advance fixing of levies or refunds, the total or partial suspension of advance fixing.

The provisions of Article 2 (2) shall apply.

2. The Commission shall be notified by telex of the protective measures specified in paragraph 1 as soon as they have been decided on. Such notification shall be treated as a request within the meaning of Article 21 (2) of Regulation No 1009/67/EEC. These measures shall apply only until the decision taken by the Commission on this matter enters into force.

Article 5

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, 31 January 1972.

For the Council

The President

G. THORN