REGULATION (EEC) No 223/73 OF THE COUNCIL

of 31 January 1973

laying down general rules to ensure the proper functioning of the common organization of the market in sugar following the Accession of the new Member States

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to the Treaty concerning the Accession of new Member States to the European Economic Community and the European Atomic Energy Community (1), signed at Brussels on 22 January 1972, and in particular the second subparagraph of Article 55 (6) and Article 62 (1) of the Act annexed thereto;

Having regard to the proposal from the Commission;

Whereas Article 56 of the abovementioned Act provides that appropriate measures may be taken with a view to ensuring the proper functioning of the common organization of the market, in particular if the refund on exports of a product to third countries is less than the compensatory amount or if no refund is applicable; whereas such a situation is likely to arise in the case of sugar;

Whereas the effect of the situation under consideration would be to cause operators to export from the territory of certain new Member States sugar produced within the Community as originally constituted in order to benefit from the compensatory amount granted pursuant to Article 55 of the Act; whereas the most suitable means of preventing the proper functioning of the common organization of the sugar market from being disturbed by deflection in trade is to provide for the charge of a compensatory levy on exports;

Whereas, moreover, by virtue of Protocol No 17 annexed to the Act, sugar imported into the United Kingdom under the Commonwealth Sugar Agreement will always be available on the United Kingdom market at the marketing price irrespective of any fluctuations in world market prices; whereas imports from other third countries are negligible;

Whereas the effect of applying the first subparagraph of Article 55 (6) of the Act would be to make sugar imports into the United Kingdom from the other Member States of the Community more expensive than sugar from the exporting countries covered by the Commonwealth Sugar Agreement; whereas, therefore, in order to avoid distortion of competition and having regard to the large amount of sugar covered by Protocol No 17 annexed to the Act, it is essential to invoke the second subparagraph of Article 55 (6) of the Act in respect of the products listed in Article 1 of Council Regulation No 1009/67/EEC (2) of 18 December 1967 on the common organization of the market in sugar, as last amended by Regulation (EEC) 174/73 (3);

HAS ADOPTED THIS REGULATION:

Article 1

1. If, in respect of an export of one of the products listed in Article 1 (1) (a) and (d) of Regulation No 1009/67/EEC:

— the refund on exports to third countries is less than the compensatory amount, or

— no refund on exports to third countries is applicable,

the exporting Member State which applies compensatory amounts on trade with a third country shall charge a compensatory levy on exports of the said products, with the exception of sugar exported pursuant to the provisions referred to in Article 25 of Regulation 1009/67/EEC.

2. The compensatory levy to be charged on exports shall be equal:

(a) where the first indent of paragraph 1 applies:

— to the difference between the compensatory amount applicable on the day when the product concerned is exported and the refund

(1) OJ Special Edition, 27. 3. 1972, p. 5.

(2) OJ No 308, 18. 12. 1967, p. 1.

(3) OJ No L 25, 30. 1. 1973, p. 1.

applicable to the export in question in the case of one of the products listed in Article 1 (1) (a) of Regulation No 1009/67/EEC;

— to the result of multiplying the difference between the basic compensatory amount applicable on the day when the product concerned is exported and the basic amount of the export refund in question, by the sucrose content including the content of other sugar expressed in sucrose of the said product, in the case of one of the products listed in Article 1 (1) (d) of the abovementioned Regulation;

(b) where the second indent of paragraph 1 applies:

— to the compensatory amount applicable on the day when the product concerned is exported in the case of one of the products listed in Article 1 (1) (a) of Regulation No 1009/67/EEC;

— to the result of multiplying the basic compensatory amount applicable on the day when the product concerned is exported by the sucrose content including the content of other sugar expressed in sucrose of the said product in the case of products listed in Article 1 (1) (d) of the abovementioned Regulation.

3. Paragraphs 1 and 2 shall also apply, where necessary, to the sugar content of the products covered by Council Regulation (EEC) No 804/68 [1] of 27 June 1968 on the common organization of the market in milk and milk products, as last amended by the Act, Council Regulation (EEC) No 865/68 [2] of 28 June 1968 on the common organization of the market in products processed from fruit and vegetables, as last amended by the Act, and Council Regulation (EEC) No 2682/72 [3] of 12 December 1972 laying down general rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and the criteria for fixing the amount of such refunds.

4. The rules for the application of this Article and in particular the list of products set out in paragraph 3 shall be adopted in accordance with the procedure provided for in Article 40 of Regulation No 1009/67/EEC and in the corresponding Articles of Regulations (EEC) No 804/68 and (EEC) No 865/68.

Article 2

The first subparagraph of Article 55 (6) of the Act shall not apply to sugar.

Article 3

This Regulation shall enter into force on the day of 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 1973.

For the Council

The President

A. LAVENS

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 153, 1. 7. 1968, p. 8.
(3) OJ No L 289, 27. 12. 1972, p. 13.