REGULATION (EEC) No 700/73 OF THE COMMISSION

of 12 March 1973

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 organization of the market in sugar, as last amended by Regulation (EEC) No 174/73 [2], and in particular Articles 25 (3), 27 (7), 32 (4) and 38 thereof ;

Having regard to Council Regulation (EEC) No 206/68 [3] of 20 February 1968 laying down outline provisions for contracts and inter-trade agreements on the purchase of beet, as last amended by the Act [4] annexed to the Treaty [5] concerning the Accession of new Member States to the European Economic Community and the European Atomic Energy Community, signed at Brussels on 22 January 1972, and in particular Article 11 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, 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 be calculated only 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 first part of the production levy to be paid during the marketing year in which it is produced ;

Whereas rules must be laid down for the payment of an additional amount where the production levy is less than the maximum amount, and provision must also be made for an additional payment to cover the period between the payment or account of the levy and the date envisaged for the payment of the additional amount aforesaid ;

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 Articles 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 a least 70 % pure and are produced from sugar beet,

— sucrose or invert sugar syrups which are a least 75 % pure and are produced from sugar cane,

hereinafter called syrups.

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 ;

— syrups ; or

— sugar sweepings ;

---

[1] OJ No 308, 18. 12. 1967, p. 1.
[2] OJ No L 25, 30. 1. 1973, p. 1.
[3] OJ No L 47, 23. 2. 1968, p. 1.
[4] OJ No L 73, 27. 3. 1972, p. 14.
[5] OJ No L 73, 27. 3. 1972, p. 5.

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) quanties 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 cif 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 5 of this Article, in the case of syrups produced as intermediate products ;

(e) on the basis of their content expressed in sucrose in accordance with Article 13 (1) of Commission Regulation (EEC) No 394/70 [6] of 2 March 1970 on detailed rules for the application of export refunds on sugar, in the case of syrups which are not produced as intermediate products.

4. Sugar sweepings from a previous sugar year shall be expressed as white sugar in proportion to the sucrose content.

5. Purity of syrups shall be calculated by dividing the total sugar content by the dry matter content.

The extractable sugar 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 1 October of each year each Member State shall establish definite 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 it is subsequently found that actual production figures are different from those established pursuant to paragraph 2, such differences shall be taken into account when final production figures are established for the sugar year during which the difference was recorded.

4. Where the production figures established pursuant to paragraph 2 are different from those established pursuant to paragraph 1, the quantity carried forward pursuant to Article 32 of Regulation No 1009/67/EEC shall, subject to the provision of the said Article 32, be adjusted by the Member

[1] OJ No L 89, 10. 4. 1968, p. 3.

[2] OJ No L 50, 4. 3. 1970, p. 1.

State concerned at the request of the individual 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.

5. 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 adjust, to the extent of the difference recorded, the amount to be paid under Article 5 (1) (b).

6. Where the production figures established pursuant to paragraph 2 differ from those established pursuant to paragraph 1 and where the Member State has, pursuant to Article 31 of Regulation No 1009/67/EEC, fixed the maximum quota of a sugar manufacturer at the level fixed pursuant to paragraph 1, the Member State shall, without prejudice to the special maximum quota, amend the relevant maximum quota by the difference recorded.

Article 3

1. For the purposes of Articles 25, 27 and 32 of Regulation No 1009/67/EEC and without prejudice to paragraphs 2 and 3, 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 underaking (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 the processor's total sugar production is lower than his basic quota ; or

(b) 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 his basic quota ; or

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

For any one marketing year total sugar production within the meaning of the previous subparagraph shall be the production referred to in paragraph 1 plus the quantity carried over to that marketing year and minus the quantity carried over to the following marketing year.

3. The quantity of sugar produced by a processor may be considered to be produced by the principal if, owing to a case of *force majeure,* beet, cane or molasses have to be processed in an establishment other than that of the principal.

Article 4

1. Before 1 March each year the production levy for the sugar year in question shall be estimated.

2. Where the estimate provided for in paragraph 1 is lower than 5 units of account per 100 kg, the Commission shall publish the result of that estimate in the *Official Journal of the European Communities* before 1 April. It shall publish at the same time the amount referred to in Article 5 (1) (a) second part.

Article 5

1. Member States shall collect from each 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 May of the relevant marketing year the amount of 4·00 units of account per 100 kg, or, the amount of the estimate referred to in Article 4 (1) minus 1 unit of account if this estimate is lower than 5 units of account.

(b) before 15 January of the following marketing year, the amount of the production levy minus the amount paid under (a).

2. However, for sugar manufactuers in the French departments of Guadeloupe and Martinique, the amount specified in paragraph 1 (a) shall be collected at the same time as the amount specified in paragraph 1 (b).

3. Member States shall determine the amount to be paid by all sugar manufactuers concerned not later than 15 days before each of the dates specified in paragraph 1.

4. Where the maximum quota is fixed pursuant to the provisions of Article 31 of Regulation No 1009/67/EEC later than 1 May 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.

5. When the amount of the production levy is lower than the amount collected in accordance with paragraph 1 (a), the Member States shall reimburse the difference before the end of the second month following the month of entry into force of the Regulation fixing the amount of the production levy.

Article 6

1. The amount to be paid by sugar manufacturers to the relevant beet sellers in accordance with Article 27 (4) second subparagraph of Regulation No 1009/67/EEC shall be fixed at the same time as the amount of the production levy specified in Article 7 (1).

2. Sugar manufacturers shall, in addition, pay to the beet sellers specified in paragraph 1 an amount calculated on the basis of :

(a) the difference between the maximum amount of the production levy and the amount charged under Article 5 (1) (a) ;

(b) the percentage specified in the first subparagraph of Article 27 (4) of Regulation No 1009/67/EEC ;

(c) the period between payment for the beet and the date referred to in paragraph 3 ;

(d) the rate of interest.

This amount shall not be less than 0·20 unit of account per metric ton of beet of a sugar content of 16 %. The price increases and reductions provided for in Article 5 of Regulation No 1009/67/EEC shall apply to other sugar contents.

3. The sugar manufacturer shall pay to the beet sellers concerned the amounts specified in the second subparagraph of Article 27 (4) of Regulation No 1009/67/EEC and in paragraph 2 of this Article not later than four weeks after the entry into force of the amount specified in paragraph 1.

4. Inter-trade agreements may derogate from paragraphs 2 and 3.

Article 7

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

2. Overall losses incurred in disposing of the quantity produced in the Community in excess of the guaranteed 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,

— a quantity equal to the difference between recorded sales for human consumption from 1 October of the relevant marketing year to 30 September of the following year and the guaranteed quantity, where the guaranteed quantity is lower than the consumption aforesaid, 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 the period from 1 October of the relevant marketing year to 30 September of the following year.

Article 8

1. Commission Regulation (EEC) No 1087/69 [1] of 11 June 1969 on communications from Member States concerning sugar, as last amended by Regulation (EEC) No 1353/71 [2], is amended as follows :

(a) in Article 2 (3), 'in Article 2 (3) of Regulation (EEC) No 142/69' is replaced by 'in Article 2 (4) of Regulation (EEC) No . . . ./73 ;

(b) in Article 3 (5), (6) and (7), 'of Regulation (EEC) No 142/69' is replaced by 'of Regulation (EEC) No . . . ./73' ;

(c) in Article 3 (5) '1 March' is replaced by '15 February' ;

2. In the second subparagraph of Article 6 (1) of Commission Regulation (EEC) No 442/70 [3] of 9 March 1970 laying down detailed rules for the application of the system of offsetting storage costs for

(1) OJ No L 140, 12. 6. 1969, p. 15.
(2) OJ No L 143, 29. 6. 1971, p. 23.
(3) OJ No L 55, 10. 3. 1970, p. 10.

sugar, as amended by Regulation (EEC) No 335/71 [1], 'Article 1 (4) of Regulation (EEC) No 142/69' is replaced by 'Article 1 (5) of Regulation (EEC) No . . . ./73'.

Article 9

Commission Regulation (EEC) No 142/69 [2] of 25 January 1969 laying down certain detailed rules for the application of the quota system for sugar, as last amended by Regulation (EEC) No 144/73 [3], is repealed. Article 5 (3) of this Regulation will, however, be applicable till 1 May 1973.

Article 10

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, 12 March 1973.

For the Commission

The President

François-Xavier ORTOLI

[1] OJ No L 39, 17. 2. 1971, p. 15.
[2] OJ No L 20, 27. 1. 1969, p. 1.
[3] OJ No L 18, 23. 1. 1973, p. 13.