COMMISSION REGULATION (EEC) No 2680/77

of 5 December 1977

amending Regulation (EEC) No 834/74 laying down requisite provisions to prevent the sugar market being disturbed as a result of the price increase in this sector for the 1974/75 sugar marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3330/74 of 19 December 1974 on the common organization of the market in sugar (1), as last amended by Regulation (EEC) No 3138/76 (2), and in particular Article 33 thereof,

Whereas, when fixing the intervention price for the 1974/75 sugar marketing year, the Council decided on a level 7 % higher than the price which applied during the preceding sugar marketing year; whereas, furthermore, in Italy the price of sugar expressed in Italian lira increased very sharply by 37 % as a result of the increase in the intervention price and a new exchange rate for the Italian lira in the sugar sector; whereas the supply situation on the Community market and on the Italian market in particular was seriously threatened by the sugar shortage during the 1973/74 marketing year; whereas to prevent disturbances on the market of that Member State special measures had to be taken to discourage traders from holding sugar and stocking it in excessive quantities before 1 July 1974; whereas in these circumstances it was necessary to record all quantities of sugar in excess of 500 kg held in stock by such traders on 1 July 1974;

Whereas on the basis of the above considerations the Commission, in Article 6 of Commission Regulation (EEC) No 834/74 of 5 April 1974 laying down requisite provisions to prevent the sugar market being disturbed as a result of the price increase in this sector for the 1974/75 sugar marketing year (3), as last amended by Regulation (EEC) No 2106/74 (4), made provision for Italy to take certain national measures to prevent market disturbances resulting from the increase, on 1 July 1974, in the price of sugar expressed in Italian lira; whereas pursuant to that provision Italy laid down that all those holding stocks of sugar in excess of 500 kg on 1 July 1974 should pay a charge;

(1) OJ No L 359, 31. 12. 1975, p. 1.
(2) OJ No L 354, 24. 12. 1976, p. 1.
(3) OJ No L 99, 9. 4. 1974, p. 15.
(4) OJ No L 218, 9. 8. 1974, p. 53.

Whereas, in its judgment of 30 October 1975 in Case 23/75, the Court of Justice of the European Communities ruled that Article 6 of Regulation (EEC) No 834/74 was invalid; whereas the Court considered that, while being legally entitled to adopt a provision imposing a pecuniary charge on holders of sugar stocks in a Member State following a change in the common prices and of those prices expressed in national currencies on the changeover from one sugar marketing year to the next, the Commission should it self determine the essential basic rules; whereas these rules should indicate the classes of trader subject to the charges and the bases for calculating it and contain a definition of the concept of 'excessive stocking' according to the classes of trader concerned and the size of the undertakings;

Whereas it is therefore necessary to fill the legal vacuum thereby created so as to avoid discriminating against holders of sugar who supplied the Italian market normally before 1 July 1974; whereas the provision that has been invalidated should, therefore, be entirely replaced by another that takes account of the judgment of the Court while retaining the essential characteristics of the original measure;

Whereas this provision can be introduced under Article 33 of Regulation (EEC) No 3330/74; whereas this Article which provides for the possibility of adopting requisite provisions to prevent the sugar market being disturbed as a result of an alteration in price levels at the changeover from one marketing year to the next, reproduces exactly the terms of Article 37 (2) of Regulation No 1009/67/EEC of 18 December 1967 on the common organization of the market in sugar (5), under which the invalidated measure was adopted;

Whereas the amount of the charge levied on sugar holders should cover the difference between consumer prices in Italy on the changeover from the 1973/74 to the 1974/75 sugar marketing year; whereas, however, when fixing the amount of the charge to be levied on sugar manufacturers, account must be taken of the impact of the other measures laid down in Regulation (EEC) No 834/75 which this category of traders had to bear;

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

Whereas certain industrial users of sugar need to have a sufficient stock to continue normal activity ; whereas such a stock cannot be termed excessive ; whereas the size of such a stock will differ according to the type or seasonal nature of the activity of each undertaking concerned ; whereas, however, in the supply situation outlined above it is reasonable to consider that, to maintain normal activity, industrial users require sufficient stocks to sustain that activity at that time of the year for four weeks ;

Whereas it is necessary to provide that Italy can adopt every national measure for the application of this Regulation particularly in relation to reimbursements of sums that have been collected in excess pursuant to the exemption from the charge on working stocks provided for by this Regulation ;

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

Article 6 of Regulation (EEC) No 834/74 is amended to read as follows :

'*Article 6*

1. In order to regularize the economic situation threatened by disturbances on the Italian market caused by the increase, on 1 July 1974, of the price of sugar expressed in Italian lira, Italy shall levy a charge on sugar stocks to be paid by all holders of sugar as defined below and shall distribute the proceeds from this charge to sugar beet growers.

2. Within the meaning of paragraph 1 a holder of sugar shall be any person who, in Italy at 00 hours on 1 July 1974 held, for any reason whatsoever, white sugar, raw sugar or sugar syrups in excess of 500 kg, or to whom one of these products was being transported in Italy at that time.

Italy shall record the quantities concerned on the basis of declarations to be made by the parties concerned before a date to be determined by that Member State.

3. Italy shall fix the amount of the charge referred to in paragraph 1 so that it does not exceed the difference between the consumer prices, expressed in Italian lira, applying on the market of that Member State at the end of the 1973/74 sugar marketing year and at the beginning of the 1974/75 sugar marketing year.

4. The charge referred to in paragraph 1 shall be levied on all quantities recorded pursuant to the provisions of paragraph 2, excluding working stocks.

Working stocks shall be that quantity of sugar held by industrial users which is necessary for four weeks' activity in 1974 ; the reference period to be taken for that purpose shall be determined on the basis of the type and seasonal nature of the activity of each of these industries.

5. Italy shall adopt the requisite measures for the application of this Article and shall notify the Commission thereof in writing without delay.'

Article 2

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

It shall apply with effect from 10 April 1974.

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

Done at Brussels, 5 December 1977.

For the Commission

Finn GUNDELACH

Vice-President