COMMISSION REGULATION (EEC) No 1182/78

of 31 May 1978

supplementing Regulations (EEC) No 1634/77 and (EEC) No 1790/77 on standing invitations to tender to determine export refunds on sugar

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 705/78 (2), and in particular Articles 12 (2), 19 (4) and 34 thereof,

Having regard to Council Regulation (EEC) No 974/71 of 12 May 1971 on certain measures of conjunctural policy to be taken in agriculture following the temporary widening of the margins of fluctuation for the currencies of certain Member States (3), as last amended by Regulation (EEC) No 557/76 (4), and in particular Article 6 thereof,

Whereas Article 4 (3) (b) of Commission Regulation (EEC) No 1380/75 of 29 May 1975 laying down detailed rules for the application of monetary compensatory amounts (5), as last amended by Regulation (EEC) No 2505/77 (6), provides that, in the application of monetary compensatory amounts in the trade with third countries, import charges as well as export refunds and levies, fixed in units of account and applicable to the products concerned, shall be modified by a coefficient derived from the percentage used for the calculation of the monetary compensatory amount anf fixed by the Commission together with that amount;

Whereas in Case 108/77 the Court of Justice of the European Communities has declared that, in its present version, Article 4 (3) of Regulation (EEC) No 1380/75 together with Regulation (EEC) No 2101/75 (7) shall be interpreted in such a way that the export refund on sugar fixed in a national currency on the basis of an invitation to tender shall not be modified by the monetary coefficient fixed by the Commission and derived from the percentage used for the calculation of the monetary compensation;

Whereas, in order that the system of monetary compensatory amounts can be satisfactorily applied from the economic point of view it is essential that the monetary coefficient be applied equally in the case where, under an invitation to tender concerning trade with third countries, the amounts indicated in the statement of award in respect of a given successful tenderer are fixed in national currency; whereas for this reason a provision should urgently be laid down in the sugar sector, without prejudice to a general solution to be adopted and Commission Regulation (EEC) No 1634/77 of 19 July 1977 on a standing invitation to tender in order to determine export refunds for white sugar (8) and Regulation (EEC) No 1790/77 of 2 August 1977 on a standing invitation to tender in order to determine export refunds for raw beet sugar (9) should be supplemented;

Whereas for similar reasons and taking account of the practice always followed in the sugar sector that rule should be applied retrospectively with the exception of offers accepted after the Judgment of the Court and before this Regulation enters into force;

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

The following is inserted as Article 7a in Regulations (EEC) No 1634/77 and (EEC) No 1790/77:

'Article 7a

The coefficient referred to in Article 4 (3) of Regulation (EEC) No 1380/75 shall apply equally to refunds awarded in national currency for the purposes of this invitation to tender.'

Article 2

This Regulation shall enter into force on 1 June 1978.

It shall apply to all refunds awarded under Regulations (EEC) No 1634/77 and (EEC) No 1790/77 with the exception of the refunds for which offers were accepted after 24 May 1978 and before 1 June 1978.

(1) OJ No L 359, 31. 12. 1974, p. 1.
(2) OJ No L 94, 8. 4. 1978, p. 1.
(3) OJ No L 106, 12. 5. 1971, p. 1.
(4) OJ No L 67, 15. 3. 1976, p. 1.
(5) OJ No L 139, 30. 5. 1975, p. 11.
(6) OJ No L 291, 15. 11. 1977, p. 15.
(7) OJ No L 214, 12. 8. 1975, p. 5.
(8) OJ No L 181, 21. 7. 1977, p. 35.
(9) OJ No L 197, 4. 8. 1977, p. 11.

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

Done at Brussels, 31 May 1978.

For the Commission

Finn GUNDELACH

Vice-President