COMMISSION REGULATION (EEC) No 1367/78

of 22 June 1978

amending Regulations (EEC) No 2645/70, (EEC) No 2990/76 and (EEC) No 1036/78 as regards the provisions applicable to sugar produced in excess of the maximum quota

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) and 26 (3) 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 2 (3) (b) of Commission Regulation (EEC) No 2645/70 of 28 December 1970 on the provisions applicable to sugar produced in excess of the maximum quota (5), as last amended by Regulation (EEC) No 59/74 (6), allows for substitution by other sugar of sugar to be exported in accordance with Article 26 (1) of Regulation (EEC) No 3330/74 on payment of a flat-rate amount to compensate for any advantage resulting from such a substitution ; whereas, in calculating this advantage, particular account has been taken of the reduced transport costs ;

Whereas, as a result, since the national prices are determined by the agricultural parities of the unit of account which do not correspond to the relative values of the currencies in question, an additional advantage has resulted from substitutions between certain Member States ; whereas, in normal trade such differences are neutralized by the monetary compensatory amounts ; whereas the fact that such compensation is not applied to sugar produced in excess of the maximum quota has made it possible to make use of the said advantage ;

Whereas the advantages represented by such a substitution have been largely restricted by Commission Regulation (EEC) No 101/77 of 19 January 1977 amending Regulation (EEC) No 572/76 fixing monetary compensatory amounts, with special references to sugar (7), which applied the system of monetary compensatory amounts to such sugar where it is exported from a Member State other than that in which it was produced ;

Whereas these provisions were repeated by Commission Regulation (EEC) No 1036/78 of 19 May 1978 fixing the monetary compensatory amounts and certain coefficients and rates for their application (8), as corrected by Regulation (EEC) No 1078/78 (9) ;

Whereas this system has, however, been unable to cover all cases economically ; whereas the ability to substitute sugar produced in excess of the maximum quota should thus be limited to the territory of the Member State in which the sugar has been produced ; whereas, in view of this limitation, the application of monetary compensatory amounts to sugar produced in excess of the maximum quota is no longer necessary ;

Whereas, because of the geographical limitation of the ability to make a substitution, the flat-rate amount intended to compensate for the advantage resulting from the substitution should be amended ;

Whereas, it is consequently necessary to amend Article 3 (1) of Commission Regulation (EEC) No 2990/76 of 9 December 1976 on special detailed rules for the application of the system of import and export licences for sugar (10), as amended by Regulation (EEC) No 278/77 (11) ;

Whereas the Management Committee for Sugar has not delivered an opinion within the time limit set by its chairman,

(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 283, 29. 12. 1970, p. 48.
(6) OJ No L 8, 10. 1. 1974, p. 15.
(7) OJ No L 17, 20. 1. 1977, p. 11.
(8) OJ No L 133, 22. 5. 1978, p. 1.
(9) OJ No L 136, 24. 5. 1978, p. 25.
(10) OJ No L 341, 10. 12. 1976, p. 14.
(11) OJ No L 39, 10. 2. 1977, p. 17.

HAS ADOPTED THIS REGULATION :

Article 1

1. Regulation (EEC) No 2645/70 is hereby amended to read as follows :

'*Article 1*

1. The sugar referred to in Article 26 (1) of Regulation (EEC) No 3330/74 shall be exported from the Member State on whose territory it was produced. Every manufacturer of such sugar shall furnish proof that it has been exported :

— as undenatured white or raw sugar,

— without refund or levy,

— from the Member State on whose territory it was produced.

If proof is not furnished that the sugar has been exported from the Community before 1 January of the sugar marketing year following that during which the sugar in question was produced, then the sugar shall be considered to have been disposed of on the internal market.

2. For the purposes of applying this Regulation, Article 3 of Regulation (EEC) No 192/75 [1], may not be invoked.

'In respect of the sugar referred to in the first subparagraph, a licence shall be issued valid only for exportation from the territory of the Member States in which it was produced.

Section 18 of the licence shall contain one of the following endorsements :

"for export without refund or levy ; licence valid in (Member State)" ;

"udføres uden restitution eller afgift ; licens gyldig i (Medlemsstat)" ;

"à exporter sans restitution ni prélèvement ; certificat valable en (État Membre)" ;

"ohne Erstattung und ohne Abschöpfung auszuführen ; Lizenz gültig im (Mitgliedstaat)" ;

"da esportare senza restituzione né prelievo ; titolo valido in (Stato Membro)" ;

"zonder restitutie of heffing uit te voeren ; certificaat geldig in (Lid-Staat)".'

Article 3

In Part 7 of Annex I to Regulation (EEC) No 1036/78, the second sentence of footnote [1] is hereby amended to read as follows :

'However, in respect of such sugar produced during the 1977/78 sugar marketing year, it shall be levied where the customs export formalities are completed in a Member State other than that in which the export licence was issued.'

2. In Article 2 (3) (b) '2 units of account' shall read '1·00 unit of account'.

Article 2

The second subparagraph of Article 3 (1) of Regulation (EEC) No 2990/76 is hereby amended to read as follows :

Article 4

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities.* Articles 1 and 2 shall apply to sugar produced in excess of the maximum quota with effect from the 1978/79 sugar marketing year.

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

Done at Brussels, 22 June 1978.

For the Commission

Finn GUNDELACH

Vice-President

[1] OJ No L 25, 31. 1. 1975, p. 1.'