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COMMISSION REGULATION (EEC) No 2670/81

of 14 September 1981

laying down detailed implementing rules in respect of sugar production in excess of the quota

(OJ L 262, 16.9.1981, p. 14)

Amended by:

		Official Journal		
		No	page	date
►M1	Commission Regulation (EEC) No 1760/84 of 22 June 1984	L 165	19	23.6.1984
►M2	Commission Regulation (EEC) No 2561/85 of 11 September 1985	L 244	23	12.9.1985
►M3	Commission Regulation (EEC) No 1714/88 of 13 June 1988	L 152	23	18.6.1988
►M4	Commission Regulation (EEC) No 3892/88 of 14 December 1988	L 346	29	15.12.1988
►M5	Commission Regulation (EEC) No 56/91 of 9 January 1991	L 7	25	10.1.1991
►M6	Commission Regulation (EEC) No 3559/91 of 6 December 1991	L 336	26	7.12.1991
►M7	Commission Regulation (EEC) No 2177/92 of 30 July 1992	L 217	71	31.7.1992
►M8	Commission Regulation (EEC) No 67/93 of 15 January 1993	L 10	8	16.1.1993
►M9	Commission Regulation (EEC) No 1754/93 of 30 June 1993	L 161	45	2.7.1993
►M10	Commission Regulation (EC) No 158/96 of 30 January 1996	L 24	3	31.1.1996

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector [1], and in particular Article 26 (3) thereof,

Whereas Article 26 of Regulation (EEC) No 1785/81 provides that C sugar which is not carried forward to the following marketing year pursuant to Article 27 of the said Regulation and C isoglucose must be exported in the natural state without refunds or levies before 1 January following the end of the marketing year in question; whereas, if part or all of these quantities are disposed of on the internal market or if they are not exported before the date laid down, a charge is to be levied, in respect of the quantities in question, which is to be fixed in accordance with the procedure laid down in Article 41 of Regulation (EEC) No 1785/81; whereas the detailed rules governing this matter were adopted in Commission Regulation (EEC) No 2645/70 of 28 December 1970 on the provisions applicable to sugar produced in excess of the maximum quota [2], as last amended by Regulation (EEC) No 1367/78 [3], and in Commission Regulation (EEC) No 1700/80 of 30 June 1980 laying down detailed rules for the application of quotas for the production of isoglucose during the period 1 July 1980 to 30 June 1981 [4]; whereas Regulation (EEC) No 2645/70 has already been amended several times and whereas further amendments are necessary in view of the basic provisions of Regulation (EEC) No 1785/81 concerning sugar and isoglucose, which are both sweeteners and in which there is a single market; whereas therefore, for reasons of clarity, a new Regulation should be adopted incorporating the detailed rules concerning C sugar and C isoglucose;

Whereas for administrative reasons it must be specified that, for the purposes of Article 26 of Regulation (EEC) No 1785/81, the quantity of C sugar or C isoglucose in respect of which proof of export within the prescribed period has not been furnished by the manufacturer before a final date is to be considered as having been disposed of on the internal market; whereas for the same reasons the documents to be used to furnish this proof should be those used for export as required by Commission Regulation (EEC) No 2630/81 of 10 September 1981 laying down special detailed rules for application of the system of import and export licences in the sugar sector [5] and in Commission Regulation (EEC) No 3183/80 of 3 December 1980 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products [6], as last amended by Regulation (EEC) No 2646/81 [7];

Whereas when the charge to be levied in cases of disposal on the internal market is fixed, it is essential to place C sugar or C isoglucose which has not been exported on a similar footing to sugar or isoglucose imported from non-member countries; whereas for this purpose the charge should be fixed taking account both of the import levy for sugar or, for isoglucose, of the variable element referred to in Article 16 (6) of

(1) OJ No L 177, 1. 7. 1981, p. 4.
(2) OJ No L 283, 29. 12. 1970, p. 48.
(3) OJ No L 166, 23. 6. 1978, p. 24.
(4) OJ No L 166, 1. 7. 1980, p. 90.
(5) OJ No L 258, 11. 9. 1981, p. 16.
(6) OJ No L 338, 13. 12. 1980, p. 1.
(7) OJ No L 259, 12. 9. 1981, p. 10.

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Regulation (EEC) No 1785/81 at the highest rate applicable during a period comprising the marketing year during which the sugar or isoglucose in question was produced and the six months following that marketing year, and also of a flat rate (SIC! flat-rate) amount fixed on the basis of the cost of disposing of sugar imported from non-member countries;

Whereas goods supplied to the destinations referred to in Article 5 of Commission Regulation (EEC) No 2730/79 of 29 November 1979 laying down common detailed rules for the application of the system of export refunds on agricultural products [1], as last amended by Regulation (EEC) No 2646/81, are not to be considered as exports;

Whereas a manufacturer should be allowed to export sugar or isoglucose which has not been produced by him; whereas it is necessary to provide in that case for the payment of a flat-rate amount which may be considered in all cases as compensation for any advantage accruing from such a substitution;

Whereas it is necessary to provide for certain measures in cases where *force majeure* make it impossible to export C sugar and C isoglucose; whereas it is justified to make these measures applicable retroactively so that the few cases of this kind which have occurred in the past may be dealt with to the benefit of those concerned, in particular through non-payment of the charge to be paid when the product in question has for this reason not been exported;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

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Article 1

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1. The products referred to in Article 26 (1) of Regulation (EEC) No 1785/81 shall be considered to have been exported if:

(a) without prejudice to the other provisions of this Regulation, the proof referred to in Article 2 is in the possession of the competent agency of the Member State of production whichever the Member State of export of the C sugar, C isoglucose or C inulin syrup may have been;

(b) the export declaration in question is accepted by the Member State of export before 1 January following the end of the marketing year during which the C sugar, C isoglucose or C inulin syrup was produced;

(c) the C sugar, C isoglucose or C inulin syrup or a corresponding quantity within the meaning of Article 2 (3) has left the customs territory of the Community not later than 60 days after the 1 January referred to in point (b);

(d) the product has been exported without either refund or levy as white sugar or raw sugar that has not been denatured or as syrups obtained prior to sugar in solid form and falling within CN codes 1702 60 90 and 1702 90 99, such as isoglucose in its natural state or inulin syrup in its natural state.

Except in cases of *force majeure*, if any of the conditions provided for in the first subparagraph are not fulfilled, the quantity of C sugar, C isoglucose or C inulin syrup concerned shall be considered to have been disposed of on the internal market.

In cases of *force majeure*, the competent agency of the Member State on whose territory the C sugar, C isoglucose or C inulin syrup was produced shall decide on the necessary measures on the basis of the circumstances cited by the party concerned.

[1] OJ No L 317, 12. 12. 1979, p. 1.

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Where the C sugar, C isoglucose or C inulin syrup is exported from the territory of a Member State other than that in which it has been produced, those measures shall be taken after receiving the opinion, where appropriate, of the competent authorities of that Member State.

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1a. Notwithstanding paragraph 1 (a), (b) and (d), where C sugar is improted (SIC! imported) into the Canary Islands or into Madeira in the form of white sugar falling within CN code 1701 or into the Azores in the form of raw sugar falling within CN code 1701 12 10 under the scheme of exemption from import levies provided for in Article 3 of Regulation (EEC) No 1600/92 or Article 3 of Regulation (EEC) No 1601/92, it shall be regarded as being exported to a third country within the meaning of Article 26 (1) of Regulation (EEC) No 1785/81 and originating in that third country for the purposes of the application of the said scheme.

2. The quantities of sugar exported in the form of syrups as referred to under (d) of the first subparagraph of paragraph 1 must be determined on the basis of their extractable sugar content as established in accordance with the second subparagraph of Article 1 (5) of Regulation (EEC) No 1443/82.

The provisions of Article 34 of Commission Regulation (EEC) No 3665/87 [1] may not be invoked with regard to application of this Regulation.

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Article 2

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1. The proof that the conditions referred to in Article 1 (1) have been fulfilled by the manufacturer concerned shall be submitted to the competent agency of the Member State on whose territory the C sugar, C isoglucose or C inulin syrup was produced before 1 April following the end of the marketing year in which it was produced.

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However, in special cases, the competent agency of the Member State in question may allow a longer time limit.

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2. Such proof shall be furnished by the production of:

(a) an export licence issued pursuant to Article 3 of Regulation (EEC) No 2630/81 to the manufacturer by the competent agency of the Member State referred to in paragraph 1;

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However in the case of the second subparagraph of paragraph 3, this proof shall be replaced by an equi-valent proof to be determined by the same Member State;

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(b) the documents referred to in ►M4 Articles 30 and 31 ◄ of Regulation (EEC) No 3183/80 required for the release of the security;

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(c) a statement by the manufacturer to the effect that the C sugar, C isoglucose or C inulin syrup was produced by him;

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(d) and, in the case referred to in paragraph 3, where the release from storage takes place:

— before the acceptance of the export declaration referred to in Article 1 (1) (b), a supplementary proof established by the

(1) OJ No L 351, 14. 12. 1987, p. 1.

▼M4

competent authority of the Member State where the storage took place,
or

— after the acceptance of the export declaration referred to in Article 1 (1) (b), a supplementary proof within the meaning of Article 31 (2) (a) of Regulation (EEC) No 3183/80, established by the customs agency of the Member State where the storage took place.

The supplementary proof must in the two cases attest to the release from storage of the product in question or of the corresponding substituted quantity within the meaning of paragraph 3.

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For the purpose of export the manufacturer in question may, however, replace C sugar by another white sugar in its natural state falling within CN code 1701, or C isoglucose by another isoglucose with the same fructose content, produced by another manufacturer established on the territory of the same Member State.

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In the case of C sugar, the conversion under a work contract of syrups or raw sugar into white sugar for eventual export shall not be regarded as a substitution within the meaning of the preceding subparagraph.

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3. Where the C sugar, C isoglucose or C inulin syrup produced by a manufacturer is stored, with a view to its export, in a silo, warehouse or tank located in a place outside the factory of the manufacturer, in the Member State of production or in another Member State, in which are stored other sugars or isoglucose or inulin syrups produced by other manufacturers or by the manufacturer in question, without it being possible to distinguish physically between them, all of the sugars, isoglucose or inulin syrups so stored must be placed under an administrative control providing equivalent guarantees to those of customs control until the acceptance of the export declaration referred to in Article 1 (1) (b) and be kept under customs control as from the moment of the said acceptance. In this case a quantity of sugar, isoglucose or inulin syrup produced in the Community corresponding to the quantity of C sugar, C isoglucose or C inulin syrup in question, to be kept in the same silo, warehouse or tank until the moment of its release from storage, shall be allowed to be exported in substitution for that C sugar, C isoglucose or C inulin syrup outside the customs territory of the Community.

Where white C sugar of CN code 1701 99 10 is prepared with a view to its export in immediate packings having a net product content not exceeding one kilogram and is enclosed in a parcel containing other food products to be exported on behalf of the undertaking which produced the C sugar by a recognized charitable organization, this may be considered a substitution within the meaning of paragraph 2.

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Article 3

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1. The Member State concerned shall levy on quantities which, within the meaning of Article 1 (1), have been disposed of on the internal market, a charge for C sugar per 100 kilograms of white or raw sugar as appropriate, for C isoglucose per 100 kilograms of dry matter, and for C inulin syrup per 100 kilograms of dry matter expressed in sugar or isoglucose equivalent, equal to the sum of:

— the highest import charges applicable to the product concerned during the period comprising the marketing year during which the C sugar, C isoglucose or C inulin syrup concerned was produced and the six months following that marketing year
and

— ECU 1,21.

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2. The Member State concerned shall, before I May following 1 January referred to in Article 1 (1) (b), notify those manufacturers who are required to pay the charge referred to in paragraph 1 of the total amount to be paid.

Such total amount shall be paid by the manufacturers in question before 20 May of the same year.

3. However, where the competent agency has, pursuant to the second subparagraph of Article 2 (1), extended the time limit for furnishing the proof, the dates 1 May and 20 May referred to in paragraph 2 shall be replaced by the dates determined by the competent agency on the basis of the extention allowed.

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4. In the case of quantities of C sugar, C isoglucose or C inulin syrup which prior to export were destroyed or damaged without possibility of recovery, in circumstances recognized by the competent agency of the Member State concerned as a case of *force majeure*, the relevant amount referred to in paragraph 1 shall not be levied.

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Article 4

1. The Member State concerned shall, before 15 April following 1 January referred to in Article 1 (1) (b), notify those manufacturers who are required to pay the charge referred to in the second subparagraph of Article 2 (2) of the total amount to be paid.

2. The total amount shall be paid by the manufacturers in question before 1 May of the same year.

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Article 5

Regulation (EEC) No 2645/70 is hereby repealed.

It shall remain applicable to sugar produced in excess of the maximum quota for the 1980/81 sugar marketing year.

Article 6

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

Article 3 (4) shall apply with effect from 1 July 1979.