COMMISSION REGULATION (EEC) No 908/81

of 3 April 1981

on the advance fixing of monetary compensatory amounts in the tender system for the export of sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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 [1], as last amended by Regulation (EEC) No 1523/80 [2], and in particular Article 6 thereof,

Having regard to Council Regulation (EEC) No 878/77 of 26 April 1977 on the exchange rates to be applied in agriculture [3], as last amended by Regulation (EEC) No 850/81 [4], and in particular Article 5 thereof,

Whereas Regulation (EEC) No 878/77 has brought into operation the provisions of Council Regulation (EEC) No 1134/68 of 30 July 1968 laying down rules for the implementation of Regulation (EEC) No 653/68 on conditions for alterations to the value of the unit of account used for the common agricultural policy [5]; whereas in certain cases Regulation (EEC) No 1134/68 provides in particular that any person who has obtained advance fixing for a specific transaction may, on request, obtain cancellation of the advance fixing and of the relevant document or certificate; whereas Article 4 (2) of Regulation (EEC) No 878/77 provides, however, that the second subparagraph of Article 4 (1) of Regulation (EEC) No 1134/68 applies only if the application of the new representative rates is disadvantageous to the person concerned; whereas it provides also that the disadvantage may be compensated for by an appropriate measure;

Whereas any large-scale cancellation in the sugar sector of valid export licences issued following partial invitations to tender held pursuant to Commission Regulation (EEC) No 561/80 of 5 March 1980 on a standing invitation to tender in order to determine levies and/or refunds on exports of white sugar [6], as last amended by Regulation (EEC) No 3274/80 [7], and pursuant to Commission Regulation (EEC) No 1216/80 of 14 May 1980 on a standing invitation to tender in order to determine levies and/or refunds on exports of raw beet sugar [8], as last amended by Regulation (EEC) No 3274/80, and pursuant to Commission Regulation (EEC) No 63/81 of 9 January 1981 on an invitation to tender for levies or refunds on exports of white sugar to Poland [9], and pursuant to Commission Regulation (EEC) No 199/81 of 27 January 1981 on a standing invitation to tender in order to determine levies and/or refunds on exports of raw cane sugar produced in the French overseas departments [10], could be seriously prejudicial to Community management of this sector;

Whereas the most appropriate measure to avoid all risk of disadvantage consists in providing for the persons concerned the possibility of advance fixing of the monetary compensatory amounts referred to in Article 1 (2) of Commission Regulation (EEC) No 243/78 of 1 February 1978 establishing the advance fixing of monetary compensatory amounts [11], as amended by Regulation (EEC) No 1544/78 [12], after the issue of the export licences in question in respect of the tenders referred to in Regulations (EEC) No 561/80, (EEC) No 1216/80, (EEC) No 63/81 and (EEC) No 199/81 held before the date of application of this Regulation for exports to be effected on or after that date; whereas, therefore, in accordance with the second subparagraph of Article 4 (2) of Regulation (EEC) No 878/77, the right to cancel certificates may no longer be exercised;

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

Under the conditions laid down in this Regulation and by way of derogation from the first subparagraph

(1) OJ No L 106, 12. 5. 1971, p. 1.
(2) OJ No L 152, 20. 6. 1980, p. 1.
(3) OJ No L 106, 29. 4. 1977, p. 27.
(4) OJ No L 90, 4. 4. 1981, p. 1.
(5) OJ No L 188, 1. 8. 1968, p. 1.
(6) OJ No L 61, 6. 3. 1980, p. 29.
(7) OJ No L 343, 18. 12. 1980, p. 13.
(8) OJ No L 122, 15. 5. 1980, p. 29.
(9) OJ No L 10, 10. 1. 1981, p. 6.
(10) OJ No L 24, 28. 1. 1981, p. 8.
(11) OJ No L 37, 7. 2. 1978, p. 5.
(12) OJ No L 182, 5. 7. 1978, p. 7.

of Article 3 (1) of Regulation (EEC) No 243/78 the request for advance fixing of the monetary compensatory amounts referred to in Article 1 (2) of that Regulation may be lodged after the request for the sugar export licence concerned.

Article 2

The provisions of Article 1 shall apply to the quantities of sugar exported under cover of licences :

(a) delivered in respect of partial invitations to tender held before the date of application of this Regulation pursuant to Regulations (EEC) No 561/80, (EEC) No 1216/80, (EEC) No 63/81 and (EEC) No 199/81 ;

(b) in respect of which the customs formalities of exportation are completed on or after the date of application of this Regulation ;

(c) in respect of which the person concerned has not used advance fixing of monetary compensatory amounts for the exportation in question.

Article 3

The request for advance fixing referred to in Article 1 shall relate to the monetary compensatory amounts in force on the last day of the period for the submission of offers for the partial invitation to tender in respect of which the export licence was issued.

This request must be lodged with the authority which issued the licence within two weeks following the date on which this Regulation applies.

Article 4

Notwithstanding the use of the facility provided for in Article 1, the right to cancellation provided for in the last subparagraph of Article 4 (1) of Regulation (EEC) No 1134/68 may not be exercised in respect of the export licences referred to in Article 2.

Article 5

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

It shall apply with effect from the date of the entry into force of the alteration in the representative rates referred to in Article 2 of Regulation (EEC) No 878/77.

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

Done at Brussels, 3 April 1981.

For the Commission

Poul DALSAGER

Member of the Commission