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COMMISSION REGULATION (EEC) No 65/82

of 13 January 1982

laying down detailed rules for carrying forward sugar to the following marketing year

(OJ L 9, 14.1.1982, p. 14)

Amended by:

		Official Journal		
		No	page	date
►M1	Commission Regulation (EEC) No 948/82 of 26 April 1982	L 113	7	27.4.1982
►M2	Commission Regulation (EEC) No 1708/84 of 19 June 1984	L 162	7	20.6.1984
►M3	Commission Regulation (EC) No 260/96 of 12 February 1996	L 34	16	13.2.1996
►M4	Commission Regulation (EC) No 2223/2000 of 6 October 2000	L 253	15	7.10.2000

NB: This consolidated version contains references to the European unit of account and/or the ecu, which from 1 January 1999 should be understood as references to the euro — Council Regulation (EEC) No 3308/80 (OJ L 345, 20.12.1980, p. 1) and Council Regulation (EC) No 1103/97 (OJ L 162, 19.6.1997, p. 1).

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laying down detailed rules for carrying forward sugar to the following 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 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector [1], and in particular Articles 27 (3), 32 (3) and 48 thereof,

Whereas Article 27 of Regulation (EEC) No 1785/81 provides that each undertaking shall be free to decide to carry forward the whole or part of its sugar production outside its A quota to the next marketing year to be treated as part of that year's production; whereas, in view of the possibility that a sugar-producing undertaking might decide to carry forward the whole of its production outside its A quota, the beet producers concerned should be closely involved in that decision by means of an inter-trade agreement, covering this point, within the meaning of Council Regulation (EEC) No 206/68 of 20 February 1968 laying down outline provisions for contracts and inter-trade agreements on the purchase of beet [2], as last amended by the Act of Accession of Greece; whereas relations between the cane sugar manufacturers and the cane producers in the French overseas departments are the concern of the joint committee of the factory concerned; whereas, therefore, the prior assent of that committee is necessary for the carry-forward of cane sugar;

Whereas the concept of carrying forward can apply only to sugar which has in fact been produced; whereas it is therefore appropriate to provide that an undertaking may take a decision to carry forward only in respect of that sugar outside its quota A whose production has been verified by the Member State concerned and to establish the rules for such verification, in particular as regards the information to be supplied for this purpose by the undertaking;

Whereas the second subparagraph of Article 27 (3) of Regulation (EEC) No 1785/81 provides for a charge to be levied on any sugar carried forward which is disposed of during the obligatory storage period of 12 consecutive months; whereas, in addition, the disposal of such sugar during that period justifies, as in the case of all other sugar disposed of, the levying of an additional amount equal to the storage levy referred to under (a) of the third subparagraph of Article 8 (2) of Regulation (EEC) No 1785/81;

Whereas the present Regulation is intended to replace Commission Regulation (EEC) No 103/69 of 20 January 1969 laying down detailed rules for carrying forward part of one year's sugar production to the following marketing year [3], as amended by Regulation (EEC) No 144/69 [4];

Whereas beet producers in Greece do not yet have specific trade organizations to represent them; whereas, therefore, a transitional measure should be provided for carrying forward sugar from the 1981/82 marketing year,

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

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(1) OJ No L 177, 1. 7. 1981, p. 4.
(2) OJ No L 47, 23. 2. 1968, p. 1.
(3) OJ No L 14, 21. 1. 1969, p. 9.
(4) OJ No L 20, 27. 1. 1969, p. 6.

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HAS ADOPTED THIS REGULATION:

Article 1

1. An undertaking may carry forward a quantity of beet sugar to the following marketing year pursuant to Article 27 of Regulation (EEC) No 1785/81 only if provision for this has been made in an inter-trade agreement within the meaning of Article 1 of Regulation (EEC) No 206/68.

For the purposes of carrying forward beet sugar to the following marketing year the agreement referred to in the first subparagraph shall contain provisions concerning the quantity of beet corresponding to the quantity of sugar to be carried forward and the distribution of that quantity of beet among the beet producers concerned.

2. An undertaking may carry forward a quantity of cane sugar to the following marketing year pursuant to Article 27 of Regulation (EEC) No 1785/81 only if this has been approved by the joint committee of the factory concerned.

▼M1

Article 2

1. An undertaking may decide to carry forward sugar only if the Member State concerned verifies that such sugar was produced as B sugar or as C sugar.

▼M4

In the case of the carry-forward referred to in the first subparagraph of Article 32(1) of Regulation (EC) No 2038/1999, this decision by the undertaking may apply only up to a maximum quantity not exceeding 20 % of its A quota applicable in the marketing year during which the sugar in question was produced.

▼M1

However, undertakings which decided during the 1981/82 marketing year to carry forward to the1982/83 marketing year a quantity exceeding the limit referred to in the second subparagraph may decide to carry forward to the 1983/84 marketing year a maximum quantity equal to that quantity.

▼M2

For sugar carried forward the storage period referred to in Article 27 (2) of Regulation (EEC) No 1785/81 shall begin on the date notified by the undertaking to the competent body in the Member State concerned, provided that the conditions laid down in the first subparagraph have been complied with. The date may not, however, precede that on which the said body receives the notification. If the date stated in the application precedes that on which the notification is received, the storage period shall begin on the day on which the notification is received.

▼M1

2. For the purposes of the verification referred to in paragraph 1 the Member State shall:

(a) add the quantities of sugar already carried forward from the preceding marketing year to the quantities of sugar produced during the current marketing year up to the date of the relevant decision to carry forward; and

(b) subtract from the total referred to under (a) any quantities of C sugar exported before the date of the relevant decision to carry forward and any quantities subject to a decision to carry forward taken during the current marketing year.

3. The quantities of sugar carried forward shall be regarded as the first A sugar to have been produced during the marketing year to which they were carried forward.

▼M1

4. Where a Member State takes action under Article 2 (6) of Council Regulation (EEC) No 193/82 [1] it may, in order to achieve the objective referred to in that paragraph, provide that the limit laid down in the second subparagraph of paragraph 1 shall not apply to the sugar-producing undertaking during the marketing year or years for which a part of its quotas has been reallocated to one or more other sugar-producing undertakings.

Moreover, if the sugar-producing undertaking, a part of whose quotas has been reallocated to one or more other sugar-producing undertakings with effect from a given marketing year pursuant to Article 2 (6) of Regulation (EEC) No 193/82, decided before such reallocation to carry forward a quantity of sugar to the same marketing year, that decision shall be regarded as having been taken by the sugar-producing undertaking or undertakings benefiting from the reallocation of the quotas to the extent of such reallocated quotas.

Article 3

1. Subject to paragraph 3, and in respect of the beet which was processed into the sugar carried forward, the undertaking concerned shall pay a price at least equal to the minimum price for A beet in force on the date of expiry of the obligatory storage period of the sugar in question. This price shall be adjusted by increases or reductions corresponding to the differences in quality from the standard quality.

2. Where an undertaking has taken a decision to carry forward but has not, in respect of the beet processed into the sugar carried forward, made a provisional payment corresponding to the minimum price for A beet in force during the marketing year in which it was produced, that undertaking shall be bound to apportion with the beet producer the storage reimbursement for the period referred to in Article 27 of Regulation (EEC) No 1785/81.

For the purposes of this apportionment regard shall be had to the following:

(a) the financing costs taken into account in fixing the amount of the relevant storage reimbursement referred to in Article 8 of Regulation (EEC) No 1785/81;

(b) the percentage referred to in Article 29 (2) of that Regulation;

(c) the yield referred to in Article 4 (2) of that Regulation.

3. With the agreement of the Member State concerned, a derogation from the provisions of paragraph 1 may be made under an inter-trade agreement.

Where Article 30 (3) of Regulation (EEC) No 1785/81 is applied a derogation from paragraph 1 may not result in the total receipts of any beet producer being less than those resulting from the application of Articles 6 and 32 of that Regulation.

Article 4

The notification referred to in Article 27 (2) of Regulation (EEC) No 1785/81 shall include:

(a) a declaration by the undertaking concerned that the sugar to be carried forward is B sugar or C sugar and will be stored within the meaning of the said Article 27 for the period beginning on the date referred to under (c);

▼M4

(b) the quantity, expressed as white sugar, of B or C sugar to be carried forward, allocated as appropriate between:

— the carry-forward under the first subparagraph of Article 32(1) of Regulation (EC) No 2038/1999,

[1] OJ No L 21, 29. 1. 1982, p. 3.

▼M4

— the carry-forward under the second subparagraph of Article 32(1) of Regulation (EC) No 2038/1999;

▼M1

(c) the date on which the obligatory storage period begins;

(d) the information necessary for the verification referred to in Article 2 of this Regulation.

Member States may require additional information.

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Article 5

1. With the exception of cases of force majeure recognized by the Member State concerned, and without prejudice to the application of Article 2 (3), Member States shall levy an amount of ►M3 24,15 ◄ ECU per l00 kilograms of the quantity of sugar carried forward in respect of which undertakings have not complied with the storage obligation referred to in Article 27 (2) of Regulation (EEC) No 1785/81. On the quantity of sugar referred to in the first subparagraph, Member States shall also levy an amount equal to the storage levy referred to under (a) of the third subparagraph of Article 8 (2) of Regulation (EEC) No 1785/81 in force at the time when the sugar was disposed of.

2. Member States shall take the steps necessary for the application of this Article, particularly in cases where force majeure is claimed by the undertaking concerned.

▼M1

Where the Member State concerned recognizes a case of force majeure, quantities of B sugar or C sugar carried forward which have been destroyed or irretrievably damaged shall, on application by the undertaking concerned, be regarded as not having been carried forward. In respect of any C sugar so regarded, the Member State shall require repayment of amounts already paid as reimbursement of storage costs.

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Article 6

Regulation (EEC) No 103/69 is hereby repealed.

Article 7

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

The provisions of Article 1 (1) shall not apply in Greece in respect of sugar carried forward from the 1981/82 marketing year to the 1982/83 marketing year.

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