COMMISSION REGULATION (EEC) No 666/82

of 23 March 1982

amending Regulation (EEC) No 2103/77 laying down detailed rules for the buying in by intervention agencies of sugar manufactured from beet and cane harvested in the Community

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), as last amended by Regulation (EEC) No 606/82 (2), and in particular Articles 9 (6) and 11 (3) thereof,

Whereas detailed rules for the buying in by intervention agencies of sugar manufactured from beet and cane harvested in the Community were laid down in Commission Regulation (EEC) No 2103/77 (3), as amended by Regulation (EEC) No 2217/81 (4);

Whereas under Article 9 (1) of Regulation (EEC) No 1785/81, intervention agencies are obliged to buy in any sugar offered to them which has been manufactured from beet or cane harvested in the Community provided that a storage contract is first concluded with the offeror for the sugar in question; whereas Regulation (EEC) No 2103/77 should be adjusted in the light of the new provisions referred to, more particularly in respect of storage contracts and removals;

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

Regulation (EEC) No 2103/77 is hereby amended as follows:

1. The words 'sugar marketing year' in Article 2 (2), (3), (4) and (6) and in Article 6 (1) shall be replaced by the words 'marketing year';

2. Article 2 (1) shall be replaced by the following:

'1. Without prejudice to the conclusion of the prior storage contract referred to in Article 9 (1) of Regulation (EEC) No 1785/81, intervention agencies shall, under the conditions laid down, buy in sugar offered to them by specialized sugar traders.';

3. Article 6 (1) (g) shall be deleted;

4. Article 7 (2) shall be replaced by the following:

'2. The intervention agency shall examine the offer. It shall accept it not later than the end of the period referred to in paragraph 1.

The intervention agency shall, however, reject the offer if examination shows that any of the requisite conditions have not been fulfilled.';

5. Article 8 (1), (2) and (3) shall be replaced by the following:

'1. Without prejudice to Article 16 (4), the prior storage contract to be concluded between the offeror and the intervention agency shall be concluded for an indefinite period.

2. The storage contract shall take effect from the date on which the provisional payment referred to in Article 15 (1) was made and shall expire at the end of the 10-day period during which removal of the quantity of sugar in question is completed.

3. The storage contract shall in particular:

(a) provide for expiry of the contract under the conditions set out in this Regulation after at least 10 days' notice has been given;

(b) provide that where the intervention agency determines that the offeror has not observed the undertaking referred to in Article 1 (2) it may require the offeror to extend the contract beyond the time limit set for removal, in which case paragraph 4 shall not apply;

(c) specify the amount of the storage costs chargeable to the intervention agency;

(d) provide for an obligation on the part of the seller to load the sugar at his own expense on to a means of transport indicated by the intervention agency.';

(1) OJ No L 177, 1. 7. 1981, p. 4.
(2) OJ No L 74, 18. 3. 1982, p. 1.
(3) OJ No L 246, 27. 9. 1977, p. 12.
(4) OJ No L 214, 1. 8. 1981, p. 72.

6. Article 9 (2) shall be replaced by the following:

'2. The seller shall remain responsible up to the time of removal for the quality of the sugar referred to in paragraph 1 and for the packing in which the sugar has been accepted by the intervention agency.';

7. Article 10 shall be replaced by the following:

'*Article 10*

1. If it is established that a quantity of the sugar in question does not conform to the minimum quality requirements set out in Article 3 the seller shall forthwith replace that quantity with an equal quantity of sugar which does so conform, stored either in the same storage or in another storage approved for intervention.

2. Where the sugar in question is stored in one of the types of packing specified in Article 17 (2) and it is established that the packing no longer conforms to those specifications, the intervention agency shall require the seller to replace the bags by packing which does so conform.'

8. Article 15 shall be replaced by the following:

'*Article 15*

1. Subject to paragraphs 2 and 3, the intervention agency shall, within eight weeks of the date on which the offer is made, make provisional payment of an amount established on the basis of the information contained in the offer and of the buying-in price.

2. Provisional payment shall be subject to the provision by the seller of a security, equal to 5 % of the amount involved, as a guarantee of the correctness of the information furnished in the offer.

3. The intervention agency shall make final payment of the buying-in price as soon as the weight has finally been established and the final results of the sample analyses are available. Any packing costs shall be paid when the conditions of the bags is ascertained on removal.

Any differences between the weight established and the final results of the sample analyses, on the one hand, and the corresponding information furnished in the offer, on the other, shall be taken into account when final payment is made of the buying-in price, in accordance, in particular, with the provisions of Articles 13 and 14.

4. Except in case of *force majeure*, the security referred to in paragraph 2 shall be released only in so far as:

(a) the weight finally established and the final results of the sample analyses do not require a reduction in the price of the sugar bought in;

(b) the seller refunds, within three weeks of the date of receipt of a request therefor, any amount of the provisional payment referred to in paragraph 1 in excess of that properly due to him.

The security shall be released forthwith. It shall be forfeit in so far as the terms of this Regulation have not been observed.

5. Where the levy for storage costs as provided for in Article 8 (2) (a) of Regulation (EEC) No 1785/81 has already been collected in respect of sugar accepted by the intervention agency, then, at the request of the seller and on production of proof that the levy has been paid, the intervention agency shall pay to the seller, in addition to the buying-in price, an amount equal to the levy collected in respect of the sugar in question. The payment of such amount shall be made at the same time as the provisional payment referred to in paragraph 1.';

9. Article 16 (4) and (5) shall be replaced by the following:

'4. Without prejudice to Article 13 of Commission Regulation (EEC) No 258/72 [1], sugar bought in shall be removed:

(a) in the case of offers accepted between 1 October and 31 March following, not later than 30 September following,

(b) in the case of offers accepted between 1 April and 30 September following, not later than the end of the seventh month following that in which the offer was accepted; however, in the case of offers accepted between 1 April 1982 and 30 September 1982, the sugar shall be removed not later than the end of the ninth month following that in which the offer was accepted.

5. However, by agreement with the seller the intervention agency may provide for the removal referred to in paragraph 4 to take place after the end of the periods referred to therein, in which case the intervention agency:

— shall conclude a storage contract with the seller covering the agreed period,

— shall, before the end of the said period and at its own expense, instruct the experts referred to in Article 18 to make the sample analyses referred to therein and ascertain the weight of the sugar,

— shall make final payment of the buying-in price in accordance with Article 15,

— may, on application by the seller, agree that the obligation to load the sugar bought in be discharged by payment of the costs relating thereto. These costs shall be determined on the basis of the rates in force on the date on which the corresponding maximum period referred to in paragraph 4 expires.'

(1) OJ No L 31, 4. 2. 1972, p. 22.

Article 2

This Regulation shall enter into force on 1 April 1982.

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

Done at Brussels, 23 March 1982.

For the Commission

Poul DALSAGER

Member of the Commission