COMMISSION REGULATION (EEC) No 3892/88

of 14 December 1988

amending Regulation (EEC) No 2670/81 laying down detailed implementing rules in respect of sugar production in excess of the quota

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 2306/88 (2), and in particular Article 26 (3) thereof,

Whereas Article 26 of Regulation (EEC) No 1785/81 provides that C sugar or C isoglucose, produced in respect of a marketing year and not carried forward as production of the following marketing year, cannot be disposed of on the internal market and must be exported in the natural state ; whereas in order to ensure a uniform application of this provision in the Community it has become necessary to define exactly what is meant by export within the context of the said Article and to amend as a consequence the relevant dates, while allowing Member States, as far as the time limit for communication of the proof of export is concerned, to grant longer periods ;

Whereas Article 1 of Commission Regulation (EEC) No 2670/81 (3), as last amended by Regulation (EEC) No 1714/88 (4), provides that C sugar and C isoglucose must be exported from the Member State on whose territory they were produced ; whereas that same Regulation allows the manufacturer in question, for the purpose of export, to replace his C sugar or C isoglucose by a white sugar or an isoglucose produced by another manufacturer established on the territory of the same Member State subject to payment of an amount to neutralize the economic advantage that he can gain from such a replacement ;

Whereas, however, it transpires by virtue of the evolution of storage techniques that the C sugar or the C isoglucose is sometimes stored for export in storage facilities located outside the factory, in the Member State of production or in another Member State, together with other sugars and other isoglucose produced by other undertakings or by the same undertaking without it being possible to distinguish physically between them ; whereas it is necessary as a consequence, on the one hand to ensure compliance with the abovementioned rule and on the other for technical reasons particular to this type of storage, to make clear that the substitution in the same place of storage between sugars and isoglucose from different origins is to be allowed when the product in question is kept until acceptance of the export declaration under an administrative control providing equivalent guarantees to those of customs control and, after that acceptance, is kept under customs control, without this substitution giving rise to payment of the amount referred to in Article 2 (2) of Regulation (EEC) No 2670/81 ; whereas the controls in other respects must ensure in particular that a quantity of sugar or isoglucose corresponding to the quantity of the C sugar or the C isoglucose in question is held in the same place of storage until the moment of its release from storage with a view to its export outside of the customs territory of the Community ;

Whereas it is desirable for administrative reasons that these provisions be made applicable only to production of C sugar and C isoglucose as from the 1988/89 marketing year ;

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 2670/81 is hereby amended as follows :

1. Article 1 is replaced by the following :

'*Article 1*

1. The export referred to in Article 26 (1) of Regulation (EEC) No 1785/81 shall be considered to have taken place if :

(a) the C sugar or the C isoglucose is exported from the Member State on whose territory it was produced ;

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

(c) the C sugar or the C isoglucose or a corresponding quantity within the meaning of Article 2 (3) left the customs territory of the Community at the latest within 60 days from 1 January referred to under (b) ;

(d) the product has been exported without refund or levy as white sugar or raw sugar, non denatured, or as syrups, obtained prior to the crystallizing stage, falling within CN codes 1702 60 90 and 1702 90 90, or as isoglucose in its natural state, from the Member State referred to under (a).

Except in the case of *force majeure,* if all of the conditions provided for in the first subparagraph are not complied with, the quantity of C sugar or C isoglucose in question shall be considered to have been disposed of on the internal market.

(1) OJ No L 177, 1. 7. 1981, p. 4.
(2) OJ No L 201, 27. 7. 1988, p. 65.
(3) OJ No L 262, 16. 9. 1981, p. 14.
(4) OJ No L 152, 18. 6. 1988, p. 23.

In the case of *force majeure,* the competent agency of the Member State on whose territory the C sugar or the C isoglucose has been produced shall adopt the measures which are necessary by virtue of the circumstances invoked by the interested party.

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 (*) may not be invoked with regard to application of this Regulation.

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

2. Article 2 (1) is replaced by the following:

'1. The proof that the conditions referred to in Article 1 (1) have been complied with by the manufacturer in question must be furnished to the competent agency of the Member State on whose territory the C sugar or C isoglucose was produced and before 1 April following the end of the marketing year during which it was produced.

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

3. in Article 2 (2) (b), first subparagraph, 'referred to in Article 30' is replaced by 'referred to in Articles 30 and 31';

4. the following is added to the first subparagraph of Article 2 (2):

'(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 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.';

5. Article 2 (3) is replaced by the following:

'3. Where the C sugar or the C isoglucose 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, and in which are stored other sugars or isoglucose produced by other manufacturers or by the manufacturer in question, without it being possible to distinguish physically between them, all of the sugars or the isoglucose 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 to be kept under customs control as from the moment of the said acceptance. In this case a quantity of sugar or isolgucose produced in the Community corresponding to the quantity of C sugar or C isoglucose 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 or that C isoglucose outside of the customs territory of the Community without giving rise to payment of the charge referred to in paragraph 2.';

6. Article 3 (2) and (3) are replaced by the following:

'2. The Member State concerned shall, before 1 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.';

7. Article 4 is replaced by the following:

'*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.'

Article 2

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

It shall be applicable to the C sugar and the C isoglucose produced as from the 1988/89 marketing year.

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

Done at Brussels, 14 December 1988.

For the Commission
Frans ANDRIESSEN
Vice-President