# COMMISSION REGULATION (EEC) No 3871/90

## of 28 December 1990

## fixing the rates of the refunds applicable to certain products from the sugar sector exported in the form of goods not covered by Annex II to the Treaty

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 market in sugar (1), as last amended by Regulation (EEC) No 3577/90 (2), and in particular Article 19 (4) (a) and (7) thereof,

Whereas Article 19 (1) and (2) of Regulation (EEC) No 1785/81 provides that, for the products listed in Article 1 (1) (a), (c), (d), (f) and (g) of that Regulation, an export refund may be granted when these goods are exported in the form of goods listed in Annex I to that same Regulation; whereas Council Regulation (EEC) No 3035/80 of 11 November 1980 laying down general rules for granting export refunds for certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and the criteria for fixing the amount of such refunds (3), as last amended by Regulation (EEC) No 3381/90 (4), specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex I to Regulation (EEC) No 1785/81;

Whereas, in accordance with the first subparagraph of Article 4 (1) of Regulation (EEC) No 3035/80, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month; and whereas, in accordance with paragraph 2 of that Article, that rate must be determined with particular reference to:

(a) the average costs incurred by processing industries in obtaining supplies of the basic products on the Community market and the prices ruling on the world market;

(b) the level of the refunds on exports of processed agricultural products covered by Annex II to the Treaty which are manufactured under similar conditions;

(c) the need to ensure equality of competition for the industries which use Community products and those which use third-country products under inward processing arrangements;

Whereas Article 4 (3) of Regulation (EEC) No 3035/80 provides that, when the rate of the refund is being fixed, account should be taken, where appropriate, of refunds, aids or other measures having equivalent effect, applicable in all Member States in accordance with the Regulation on the common organization of the market in the product in question, to the basic products listed in Annex A to that Regulation or to assimilated products;

Whereas Council Regulation (EEC) No 1010/86 of 26 March 1986 laying down general rules for production refunds on certain products of the chemical industry (5), as last amended by Regulation (EEC) 1771/90 (6), provides for the granting of production refunds of white sugar, raw sugar, certain sucrose syrups falling within CN codes ex 1702 60 90 and ex 1702 90 90 having a certain purity, and unprocessed isoglucose falling within CN codes 1702 30 10, 1702 40 10, 1702 60 10 and 1702 90 30, which are used in the manufacture of the chemical products listed in the Annex thereto; whereas this production refunds' scheme has been established in particular to bring the conditions under which Community processors operate progressively into line with those of processors employing sugar at world market prices; whereas, therefore, in the absence of proof that the basic product has not benefited from the production refund, the amount of the export refund must be reduced by the amount of the production refund applicable to the basic product on the day of acceptance of the export declaration; whereas this system is the only one which discards the risk of fraud;

Whereas Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural products (7), as amended by Regulation (EEC) No 2026/83 (8), and Commission Regulation (EEC) No 3665/87 of 27 November 1987 laying down common detailed rules for the application of the system of export refunds on agricultural products (9), as last amended by Regulation (EEC) No 1615/90 (10), lay down rules on the advance payment of export refunds that must be adhered to when these are adjusted;

(1) OJ No L 177, 1. 7. 1981, p. 4.
(2) OJ No L 353, 17. 12. 1990, p. 23.
(3) OJ No L 323, 29. 11. 1980, p. 27.
(4) OJ No L 327, 27. 11. 1990, p. 4.
(5) OJ No L 94, 9. 4. 1986, p. 9.
(6) OJ No L 163, 29. 6. 1990, p. 1.
(7) OJ No L 62, 7. 3. 1980, p. 5.
(8) OJ No L 199, 22. 7. 1983, p. 12.
(9) OJ No L 351, 14. 12. 1987, p. 1.
(10) OJ No L 152, 16. 6. 1990, p. 33.

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*

1. Without prejudice to paragraphs 2 and 3, the rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EEC) No 3035/80 and listed in Article 1 (1) and (2) of Regulation (EEC) No 1785/81, exported in the form of goods listed in Annex I to Regulation (EEC) No 1785/81, are fixed as shown in the Annex hereto.

2. For the chemical products listed in the Annex to Regulation (EEC) No 1010/86, the refunds given in the Annex to this Regulation shall be applied on presentation, at the acceptance of the export declaration and the request for obtaining the export refund, of proof that the basic products used in the manufacture of the chemical products to be exported have not benefited from the production refund provided for in that Regulation, and that such refund will not be applied for.

The proof referred to in the first subparagraph is provided by the presentation by the exporter of a declaration from the processor of the basic product in question attesting that the latter product has not benefited from a production refund as provided for in Regulation (EEC) No 1010/86, and that no application for such refund will be made.

3. When the proof referred to in paragraph 2 is not provided, the export refund:

(a) applicable on the date of export of the goods, when the rate is not fixed in advance; or

(b) of which the rate is fixed in advance,

will be reduced by the amount of the production refund applicable under Regulation (EEC) No 1010/86 to the basic product in question on the day of acceptance of the export declaration for the goods, or on the day specified in Article 3 (2) of Commission Regulation (EEC) No 798/80 [1], if the goods have been placed under the export refund advance payment arrangements.

*Article 2*

This Regulation shall enter into force on 1 January 1991.

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

Done at Brussels, 28 December 1990.

*For the Commission*
Martin BANGEMANN
*Vice-President*

[1] OJ No L 87, 1. 4. 1980, p. 42.

*ANNEX*

**to the Commission Regulation of 28 December 1990 fixing the rates of the refunds applicable to certain products in the sugar sector exported in the form of goods not covered by Annex II to the Treaty**

| | |
|---|---|
| *Rate of refund in ECU/100 kg:* | |
| White sugar: | 38,12 |
| Raw sugar: | 34,76 |
| Syrups of beet sugar or cane sugar, other than the syrups obtained by dissolving white or raw sugar in the solid state, containing, in the dry state, 85 % or more by weight of sucrose (including invert sugar expressed as sucrose): | $38{,}12 \times \frac{S\,(1)}{100}$ or |
| For syrups obtained by dissolving white or raw sugar in the solid state, whether or not the dissolving is followed by inversion: | the rate fixed above for 100 kg of white or raw sugar used for the dissolution |
| Molasses: | — |
| Isoglucose (2): | 38,12 (3) |

(1) 'S' represents in 100 kilograms of syrup

— the sucrose content (including invert sugar expressed as sucrose) of the syrup in question, where the latter is not less than 98 % pure,

— the extractable sugar content of the syrup in question, where the latter is not less than 85 %, but less than 98 % pure.

(2) Products obtained by isomerization of glucose, which have a content by weight in the dry state of at least 41 % fructose and of which the total content by weight in the dry state of polysaccharides and oligosaccharides, including the di- or trisaccharides content, does not exceed 8,5 %.

(3) Amount of refund per 100 kilograms of dry matter.