COMMISSION REGULATION (EEC) No 737/91

of 19 March 1991

adopting measures for the supply of raw sugar from beet harvested in the Community to Portuguese refineries during the 1991/92 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), as last amended by Regulation (EEC) No 305/91 (2), and in particular Article 9 (6) and the second paragraph of Article 39 thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purpose of the common agricultural policy (3), as last amended by Regulation (EEC) No 2205/90 (4), and in particular Article 12 thereof,

Whereas the second subparagraph of Article 9 (4) of Regulation (EEC) No 1785/81 stipulates that, to the extent necessary for the supply of refineries, provision may be made for the same measures as those taken in regard to raw sugar produced in the French overseas departments to be applied to raw sugar produced from beet harvested in the Community; whereas Community production of raw sugar from beet in 1990/91 indicates quantities of such sugar available for Portuguese refineries for the 1991/92 marketing year;

Whereas the availability of such quantities must be turned to account quickly for refining in Portugal in 1991/92; whereas, in order to enable purchase contracts to be concluded rapidly and delivery of the quantities concerned to be made before 1 July 1991 and pending the drawing-up of a forward estimate for 1991/92, the measures provided for in the second subparagraph of Article 9 (4) of Regulation (EEC) No 1785/81 should be adopted; whereas the application of such measures to the sugar makes an operation of this sort feasible at a lower cost; whereas consequently the same aid measures should be adopted for these quantities of raw beet sugar as those prescribed by Council Regulation (EEC) No 2225/86 of 15 July 1986 laying down measures for the marketing of sugar produced in the French overseas departments and for the equalization of the price conditions with preferential raw sugar (5);

Whereas certain detailed rules relating to the determination of weights and sugar yields should be laid down, particularly in the case of transport in bulk in the same vessel but on behalf of several sellers;

Whereas in general a considerable period of time elapses between the date on which the sugar in question is loaded and that on which the formalities required for payment of the aid by the competent agency are concluded on arrival; whereas provision should therefore be made for an advance payment system; whereas, in view of the special conditions of delivery and prolonged storage in Portuguese refineries, a fairly lengthy period will elapse before the sugar is processed and thus before the refining aid is paid; whereas the system of advance payment should accordingly be extended to the refining aid in respect of the sugar brought into Portugal between the date of entry into force of this Regulation and 30 June 1991;

Whereas suitable control provisions with regard to the refined sugar, including a definition of the term 'refining', should be laid down;

Whereas, for conversion into escudos of the aid, the conversion rate applicable to the transport aid, to the advance on that aid and to the advance on the refining aid should be the agricultural conversion rate in force on the day when the bill of lading is drawn up for the sugar transported, all of which will be transported by sea, and, in so far as the refining aid is concerned, the conversion rate should be the agricultural conversion rate in force on the day when the sugar in question is refined;

Whereas Commission Regulation (EEC) No 1836/90 (6) determines the quantities of raw sugar obtained from beet harvested in the Community intended, for the 1990/91 marketing year, for the Portuguese refineries and entitled thereby to qualify for the same aids as those granted for raw sugar produced in the French overseas departments; whereas all of those quantities may not perhaps be able to be refined in good time but, being considered as working stock, those quantities are eligible for the refining aid applied for the 1991/92 marketing year; whereas it is appropriate to provide that the refining aid applied in

(1) OJ No L 177, 1. 7. 1981, p. 4.
(2) OJ No L 37, 9. 2. 1991, p. 1.
(3) OJ No L 164, 24. 6. 1985, p. 1.
(4) OJ No L 201, 31. 7. 1990, p. 9.
(5) OJ No L 194, 17. 7. 1986, p. 7.
(6) OJ No L 168, 30. 6. 1990, p. 3.

1991/92 should be applied to those quantities by setting them against the quantity fixed in Article 1 of Regulation (EEC) No 1836/90 for the 1990/91 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

For the 1991/92 marketing year, flat-rate Community aid shall be granted, as an intervention measure, in accordance with the conditions set out in this Regulation, for the transport to and refining in Portugal of raw sugar obtained from beet harvested in the Community, up to a limit equivalent to 82 000 tonnes of white sugar to be refined as from 1 July 1991.

Article 2

1. There shall be granted for the sugar referred to in Article 1 delivered to Portuguese refineries and within the prescribed limit:

(a) a flat-rate aid for transport equal to the total aid granted, in application of Article 2 of Regulation (EEC) No 2225/86 for the transport of raw sugar produced in the French overseas departments, either during the 1990/91 marketing year for the raw sugar in respect of which the bill of lading is drawn up before 1 July 1991 or during the 1991/92 marketing year for the raw sugar in respect of which the bill of lading is drawn up after 30 June 1991,

and

(b) an aid for refining in Portuguese refineries made up of:

(i) an amount per 100 kilogrammes of raw sugar of standard quality equal to the difference between the storage levy as referred to in the second subparagraph of Article 8 (2) of Regulation (EEC) No 1785/81 that was actually collected for the sugar in question and three times the amount of the monthly reimbursement of storage costs as referred to in the first subparagraph of Article 8 (2) of that Regulation which is applicable during the refining of the sugar;

and

(ii) for each tenth of a percentage point of yield in excess of 92 %, an amount equal to 0,0387 % of the intervention price for raw sugar for the 1991/92 marketing year.

2. The aid specified in paragraph 1 shall be granted on application by the Portuguese undertakings refining the sugar in question to the competent Portuguese authorities.

Article 3

1. The transport aid referred to in Article 2 (1) (a):

(a) shall be applicable to the accepted arrival weight expressed as white sugar using the yield formula referred to in Article 1 (3) of Council Regulation (EEC) No 431/68 (1).

In the case of transport in bulk which does not allow the identification of individual lots, the average yield of the whole quantity delivered shall be applied to all the sugar in question;

(b) shall be paid on presentation by the refiner:

— of the customs document of entry for consumption in Portugal or of a copy or photocopy of that document certified to be a true copy either by the body which approved the original document or by the official Portuguese services,

and

— the bill of lading, the results of the analyses and the final invoice.

2. The analyses shall be carried out on delivery, in respect of the entire shipment, by 250-tonne lots, by a laboratory approved by Portugal.

Article 4

1. An advance may be paid:

(a) in respect of the sugar referred to in Article 1, on the transport aid referred to in Article 2 (1) (a), representing 90 % of the amount determined on the basis of the weight shown on the provisional invoice converted into white sugar using a standard yield of 94,5 %.

Where the raw sugar is brought into Portugal between the date of entry into force of this Regulation and 30 June 1991, the advance shall be determined by reference to the total flat-rate transport aid referred to in Article 2 (1) (a) applicable at the time the bill of lading is drawn up for the transported sugar in question during this period;

(b) in respect of the sugar referred to in Article 1 that is brought into Portugal between the date of entry into force of this Regulation and 30 June 1991, on the aid for refining referred to in Article 2 (1) (b) (i) and (ii), representing 90 % of the amount determined on the basis of the weight shown on the provisional invoice converted into white sugar using a standard yield of 94,5 %.

Notwithstanding Article 2 (1) (b), where the raw sugar is in storage at the relevant Portuguese refiner's premises before 1 July 1991, the advance on the refining aid shall be calculated by reference to the monthly reimbursement applicable at the time the bill of lading is drawn up for the transported sugar in question and by reference to the raw sugar intervention price for the 1990/91 marketing year.

(1) OJ No L 89, 10. 4. 1968, p. 3.

2. Applications for advance payments as referred to in paragraph 1 (a) and (b) shall be made by the refiner concerned and accompanied by customs documents of entry into Portugal, the bill of lading and the provisional invoice.

3. Applications for advance payments the refining aid referred to in paragraph 1 (b) shall be accompanied by the lodging of a security corresponding to the advance granted. Such securities shall be released for quantities in respect of which the final payment of the total refining aid referred to in Article 2 (1) (b) is made.

Securities shall be lodged, at the applicant's discretion, in cash or in the form of a guarantee from an establishment meeting the criteria laid down by Portugal.

Securities or parts of securities which are not released shall be forfeit in respect of the quantity of sugar of which the relevant obligations have not been fulfilled.

Article 5

1. For the granting of the aid referred to in Article 2 (1) (b) and of the advance on the payment of that aid, the raw sugar concerned shall be placed, at the refiner's request, under customs control or under another form of administrative control providing the same safeguards.

2. For the purposes of this Regulation, 'refining' means the conversion of raw sugar as defined in Article 1 (2) (b) of Regulation (EEC) No 1785/81 into white sugar as defined in Article 1 (2) (a) of that Regulation.

Article 6

1. The aid referred to in Article 2 (1) and the advances on the payment of that aid shall be granted only if the applications presented by the refiner are accompanied by evidence recognized by Portugal that the raw sugar in question has been obtained from beet harvested in the Community and if the bill of lading for the transported sugar in question has been drawn up :

(a) within the period between the date of entry into force of this Regulation and 30 June 1991 in so far as the advance on the payment of the refining aid and the payment of this aid are concerned for the sugar referred to in Article 1 brought into Portugal before 1 July 1991 ;

(b) after 30 June 1991 in so far as the payment of the refining aid for the sugar referred to in Article 1, brought into Portugal as from 1 July 1991, is concerned.

2. To permit the granting of the transport aid referred to in Article 2 (1) (a), the Commission shall notify the competent Portuguese authorities of the unit transport aid amounts applicable as the case may be during the 1990/91 marketing year and during the 1991/92 marketing year.

3. Within two months following each month concerned, Portugal shall notify the Commission of the quantities, expressed as white sugar, for which the aid referred to in Article 2 (1) has been granted and the sums corresponding to those quantities.

Article 7

For the quantities of sugar falling within the quantity fixed in Article 1 of Regulation (EEC) No 1836/90 the refining of which takes place as from 1 July 1991, the refining aid in force during the 1991/92 marketing year pursuant to Article 2 (b) of this Regulation shall be applicable. The quantities so refined shall be set against the quantity fixed in Article 1 of Regulation (EEC) No 1836/90 for the 1990/91 marketing year.

Article 8

The conversion into escudos :

(a) of the aid referred to in Article 2 (1) (a) and of the advance payments referred to in Article 4 (1) (a) shall be at the agricultural conversion rate applicable on the day when the bill of lading for the transported sugar is drawn up ;

(b) of the aid referred to in Article 2 (1) (b) shall be at the agricultural conversion rate applicable on the day when the quantity of sugar concerned is refined ;

(c) of the advance payment referred to in Article 4 (1) (b) shall be at the agricultural conversion rate applicable on the date when the bill of lading for the transported sugar is drawn up.

Article 9

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

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

Done at Brussels, 19 March 1991.

For the Commission
Ray MAC SHARRY
Member of the Commission