COMMISSION REGULATION (EC) No 2135/95

of 7 September 1995

laying down detailed rules of application for the grant of export refunds in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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 (EC) No 1101/95 (2), and in particular Article 17 (15) thereof;

Whereas the Agreement on Agriculture reached during the Uruguay Round multilateral trade negotiations, hereinafter referred to as the 'Agreement', requires in particular that the regulations applicable to exports of sugar be adapted; whereas Title II (Trade with third countries) of the basic Regulation (EEC) No 1785/81 was revised as a result of that Agreement by Council Regulation (EC) No 3290/94 (3); whereas, consequently, the detailed rules of application for granting export refunds on sugar laid down by Commission Regulations (EEC) No 394/70 (4), as last amended by Regulation (EC) No 2529/94 (5), and (EEC) No 1469/77 (6), as amended by Regulation (EEC) No 1714/88 (7), should also be reviewed, the Regulations being repealed while those provisions still relevant to the application of the refund system are carried over;

Whereas candy sugar, which is manufactured from white sugar or refined raw sugar, very often has a degree of polarization of less than 99,5 %; whereas, in view of the high degree of purity of the raw material used, the refund on candy sugar should be as close as possible to the refund on white sugar; whereas a precise definition of candy sugar should be laid down;

Whereas the intervention prices for white sugar and raw sugar are fixed without taking account of the storage levy provided for in Article 8 of Regulation (EEC) No 1785/81; whereas, however, account should be taken of the impact of that levy on sugar prices and the export refunds should be determined accordingly;

Whereas, in order to ensure equal treatment of all parties concerned in the Community, a standard method for determining the sucrose content of certain products should be laid down; whereas special provisions must be laid down to cover cases where that method does not allow the total sucrose content to be determined;

Whereas, in the case of syrups with a relatively low degree of purity, the sucrose content should be fixed at a flat rate on the basis of the extractable sugar content;

Whereas exports of white sugar to third countries are more and more frequently preceded by storage in bulk in port warehouses or silos, bagging being carried out at the last minute when the ship is ready to be loaded or on board the vessel itself; whereas, as a result, such operations imply the shared use at the port concerned of a silo in which sugar from various sugar companies is stored and therefore mixed; whereas, as the regulations now stand, in order to qualify for advance payment of refunds, since sugar must be stored under conditions permitting it to be identified physically, mixing with other sugar is not permitted; whereas this situation thus prevents a major percentage of Community sugar exported to third countries from qualifying for advance payment of export refunds;

Whereas, furthermore, the special features of white sugar, namely its high degree of technical and commercial homogeneity, make it possible to relax the regulatory constraints on that product while still ensuring that the product is actually exported after payment of the refund; whereas, under these circumstances, mixing white sugar from various sources at one place of storage should under certain conditions (in particular subject to controls) be permitted for the purposes of the advance payment of export refunds, by amending the relevant provisions on the sugar sector;

Whereas, with a view to granting export refunds on isoglucose and inulin syrup, limits should be laid down as regards the fructose and polysaccharide content in order to ensure that the refund is granted only on the true product as such; whereas, as regards inulin syrup, the

(1) OJ No L 177, 1. 7. 1981, p. 4.
(2) OJ No L 110, 17. 5. 1995, p. 1.
(3) OJ No L 349, 31. 12. 1994, p. 105.
(4) OJ No L 50, 4. 3. 1970, p. 1.
(5) OJ No L 269, 20. 10. 1994, p. 14.
(6) OJ No L 162, 1. 7. 1977, p. 9.
(7) OJ No L 152, 18. 6. 1988, p. 23.

production quotas and production levies are established at the same level as for sugar and isoglucose by applying a coefficient of 1,9; whereas, as a result, the refund on inulin syrup should be established using that coefficient; whereas the export refund on isoglucose and inulin syrup should be fixed each month in line with the monthly fixing of other refunds in the sugar sector;

Whereas it is economically desirable to provide for the possibility of refunds being adjusted in cases where changes occur in the intervention prices and the price for molasses between the time they are fixed and actual export;

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 purposes of Article 17 of Regulation (EEC) No 1785/81, 'candy sugar' means sugar which:

(a) comprises large crystals at least 5 mm in length, obtained by cooling and slow crystallization of a sufficiently concentrated sugar solution,

and

(b) contains 96 % or more sucrose by weight in the dry state, determined in accordance with the polarimetric method.

Article 2

For the purposes of Articles 17a (2) (b) and 17c of Regulation (EEC) No 1785/81, the export refund shall be fixed taking account of the storage levy referred to in Article 8 of Regulation (EEC) No 1785/81 which is fixed for the marketing year in question.

Article 3

1. The export refund per 100 kg of products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81 shall be equal to a basic amount multiplied by the sucrose content of the product in question as determined plus, where applicable, the content of other sugars calculated in sucrose equivalent.

2. Without prejudice to paragraphs 3 and 4, the sucrose content plus, where applicable, the content of other sugars expressed as sucrose shall be the total sugar content resulting from application of the Lane and Eynon method (copper reduction method) to the inverted solution in accordance with Clerger-Herzfeld. The total sugar content determined in accordance with that method shall be converted into sucrose by multiplying it by a coefficient of 0,95.

3. In the case of syrups of a purity of not less than 85 % but less than 94,5 %, the sucrose content plus, where applicable, the content of other sugars expressed as sucrose shall be fixed at a flat rate of 73 % by weight in the dry state. The percentage purity of syrups shall be calculated by dividing the total sugar content by the dry matter content and multiplying the result by 100. The total sugar content shall be determined in accordance with the method referred to in paragraph 2 and the dry matter content in accordance with the areometric method.

4. In the case of caramel obtained exclusively from non-denatured sugar covered by CN code 1701, the surcrose content plus, where applicable, the content of other sugars expressed as sucrose shall be determined on the basis of the dry matter content. The dry matter content shall be determined on the basis of the density of the diluted solution in a weighted ratio of one to one. The result of the determination of the dry matter content shall be expressed as sucrose by multiplying it by a coefficient of one.

However, on request, to take account of caramel as referred to above, the actual amount used of sucrose plus, where applicable, of other sugars expressed as sucrose may be determined where the candy has been manufactured under a customs warehousing or free zone procedure providing equivalent guarantees.

5. The basic amount referred to in paragraph 1 shall not apply to syrups with a purity of less than 85 %.

Article 4

Where white sugar covered by CN code 1701 99 10 and produced from beet or cane harvested in the Community or from raw sugar imported into the Community under preferential arrangements is stored in bulk under a customs warehousing or free zone procedure laid down for advance payment of the refund as defined in Council Regulation (EEC) No 565/80 [1], the sugar may, in addition to the operations provided for in Article 28 (4) of Commission Regulation (EEC) No 3665/87 [2], be mixed at the same place of storage with other white sugar also covered by CN code 1701 99 10, of the same origin as referred to above, of the same commercial quality and with equivalent technical characteristics.

[1] OJ No L 62, 7. 3. 1980, p. 5.
[2] OJ No L 351, 14. 12. 1987, p. 1.

Article 5

Export refunds may only be granted on the products listed in Article 1 (1) (f) and (g) of Regulation (EEC) No 1785/81 where the products:

— are obtained by isomerization of glucose,

— have a fructose content by weight in the dry state of not less than 41 %,

and

— have a total content by weight in the dry state of polysaccharides and oligosaccharides, including di- and trisaccharides, of not more than 8,5 %.

The dry matter content of isoglucose shall be determined on the basis of the density of the diluted solution in a proportion by weight of one to one or, in the case of products with a very high consistency, by drying. The refund shall be fixed each month.

Article 6

Export refunds may only be granted on the products listed in Article 1 (1) (h) of Regulation (EEC) No 1785/81 where the products:

— are obtained immediately after hydrolysis of inulin or oligofructose,

— have a fructose content by weight in the dry state of at least 80 %,

and

— have a total content by weight in the dry state of polysaccharides and oligosaccharides, including di- and trisaccharides, of not more than 8,5 %.

The export refund on the products listed in Article 1 (1) (h) of Regulation (EEC) No 1785/81 shall be equal, per 100 kg of dry matter, to the export refund fixed for the product referred to in Article 1 (1) (f) of that Regulation multiplied by a coefficient of 1,9. The refund shall be fixed each month.

Article 7

If, during the period between:

— the day of lodging of the application for an export licence where the refund is fixed periodically, or

— the closing date for the submission of tenders where the refund is fixed by invitation to tender

and the day of export, there is a change in the prices of sugar or molasses fixed pursuant to Regulation (EEC) No 1785/81, provision may be made for the refund to be adjusted.

Article 8

Regulations (EEC) No 394/70 and (EEC) No 1469/77 are hereby repealed.

Article 9

This Regulation shall enter into force on 1 October 1995.

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

Done at Brussels, 7 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission