COMMISSION REGULATION (EC) No 158/96

of 30 January 1996

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 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 26 (3) thereof,

Whereas Article 26 of Regulation (EEC) No 1785/81 lays down that C sugar, C isoglucose and C inulin syrup may not be disposed of on the Community's internal market and must be exported in the natural state before 1 January following the end of the marketing year in question; whereas the same Article also lays down that a charge will be levied on C sugar, C isoglucose and C inulin syrup proof of whose export in the natural state within the required period has not been furnished at a date to be determined;

Whereas the common organization of the market in sugar governed by Regulation (EEC) No 1785/81 has been extended to inulin syrup falling within CN codes ex 1702 60 90 and 1702 90 80; whereas, therefore, the production quota scheme which it provides for applies to that product; whereas Commission Regulation (EEC) No 2670/81 [3], as last amended by Regulation (EEC) No 1754/93 [4], should also be amended accordingly;

Whereas the Agreement on Agriculture resulting from the Uruguay Round of multilateral trade negotiations led, in particular, to the suppression from 1 July 1995 of the variable import levies provided for by the common organization of the market in sugar; whereas, therefore, the abovementioned charge to be levied should from now on be determined by reference to import charges for the product in question;

Whereas experience has shown that levying a flat-rate charge in the case of substitute exports of sugar or isoglucose cannot be justified;

Whereas this Regulation is 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 (1) is replaced by the following:

'1. The products referred to in Article 26 (1) of Regulation (EEC) No 1785/81 shall be considered to have been exported if:

(a) without prejudice to the other provisions of this Regulation, the proof referred to in Article 2 is in the possession of the competent agency of the Member State of production whichever the Member State of export of the C sugar, C isoglucose or C inulin syrup may have been;

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

(c) the C sugar, C isoglucose or C inulin syrup or a corresponding quantity within the meaning of Article 2 (3) has left the customs territory of the Community not later than 60 days after the 1 January referred to in point (b);

(d) the product has been exported without either refund or levy as white sugar or raw sugar that has not been denatured or as syrups obtained prior to sugar in solid form and falling within CN codes 1702 60 90 and 1702 90 99, such as isoglucose in its natural state or inulin syrup in its natural state.

Except in cases of *force majeure*, if any of the conditions provided for in the first subparagraph are not fulfilled, the quantity of C sugar, C isoglucose or C inulin syrup concerned shall be considered to have been disposed of on the internal market.

In cases of *force majeure*, the competent agency of the Member State on whose territory the C sugar, C isoglucose or C inulin syrup was produced shall decide on the necessary measures on the basis of the circumstances cited by the party concerned.

Where the C sugar, C isoglucose or C inulin syrup is exported from the territory of a Member State other than that in which it has been produced, those measures shall be taken after receiving the opinion, where appropriate, of the competent authorities of that Member State.'

[1] OJ No L 177, 1. 7. 1981, p. 4.
[2] OJ No L 110, 17. 5. 1995, p. 1.
[3] OJ No L 262, 16. 9. 1981, p. 14.
[4] OJ No L 161, 2. 7. 1993, p. 45.

2. Article 2 is amended as follows:

(a) the first subparagraph of paragraph 1 is replaced by the following:

'1. The proof that the conditions referred to in Article 1 (1) have been fulfilled by the manufacturer concerned shall be submitted to the competent agency of the Member State on whose territory the C sugar, C isoglucose or C inulin syrup was produced before 1 April following the end of the marketing year in which it was produced.';

(b) point (c) of the first subparagraph of paragraph 2 is replaced by the following:

'(c) a statement by the manufacturer to the effect that the C sugar, C isoglucose or C inulin syrup was produced by him.'

(c) the second subparagraph of paragraph 2 is replaced by the following:

'For the purpose of export the manufacturer in question may, however, replace C sugar by another white sugar in its natural state falling within CN code 1701, or C isoglucose by another isoglucose with the same fructose content, produced by another manufacturer established on the territory of the same Member State.'

(d) paragraph 3 is replaced by the following:

'3. Where the C sugar, C isoglucose or C inulin syrup 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, in which are stored other sugars or isoglucose or inulin syrups produced by other manufacturers or by the manufacturer in question, without it being possible to distinguish physically between them, all of the sugars, isoglucose or inulin syrups 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 be kept under customs control as from the moment of the said acceptance. In this case a quantity of sugar, isoglucose or inulin syrup produced in the Community corresponding to the quantity of C sugar, C isoglucose or C inulin syrup 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, C isoglucose or C inulin syrup outside the customs territory of the Community.

Where white C sugar of CN code 1701 99 10 is prepared with a view to its export in immediate packings having a net product content not exceeding one kilogram and is enclosed in a parcel containing other food products to be exported on behalf of the undertaking which produced the C sugar by a recognized charitable organization, this may be considered a substitution within the meaning of paragraph 2.'

3. Article 3 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The Member State concerned shall levy on quantities which, within the meaning of Article 1 (1), have been disposed of on the internal market, a charge for C sugar per 100 kilograms of white or raw sugar as appropriate, for C isoglucose per 100 kilograms of dry matter, and for C inulin syrup per 100 kilograms of dry matter expressed in sugar or isoglucose equivalent, equal to the sum of:

— the highest import charges applicable to the product concerned during the period comprising the marketing year during which the C sugar, C isoglucose or C inulin syrup concerned was produced and the six months following that marketing year

and

— ECU 1,21.'

(b) paragraph 4 is replaced by the following:

'4. In the case of quantities of C sugar, C isoglucose or C inulin syrup which prior to export were destroyed or damaged without possibility of recovery, in circumstances recognized by the competent agency of the Member State concerned as a case of *force majeure,* the relevant amount referred to in paragraph 1 shall not be levied.'

Article 2

This Regulation shall enter into force on the third day following 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, 30 January 1996.

For the Commission

Franz FISCHLER

Member of the Commission