

COMMISSION REGULATION (EEC) No 189/77

of 28 January 1977

laying down detailed rules for the application of the system of minimum stocks
in the sugar sector

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No
3330/74 of 19 December 1974 on the common organi-
zation of the market in sugar⁽¹⁾, as last amended by
Regulation (EEC) No 3138/76⁽²⁾, and in particular
Article 34 thereof,

Having regard to Council Regulation (EEC) No
1488/76 of 22 June 1976 laying down provisions for
the introduction of a system of minimum stocks in
the sugar sector⁽³⁾, and in particular Article 7 thereof,

Whereas Article 18 of Regulation (EEC) No 3330/74
provides for the introduction of a system of minimum
stocks in the sugar sector; whereas Regulation (EEC)
No 1488/76 lays down the general provisions relating
thereto;

Whereas, when determining the quantities to be
covered by minimum stocks, it is appropriate to use
the definition of production contained in Article 1 of
Commission Regulation (EEC) No 700/73 of 12
March 1973 laying down certain detailed rules for the
application of the quota system in the sugar sector⁽⁴⁾,
as amended by Regulation (EEC) No 1573/76⁽⁵⁾;

Whereas there is often a significant lapse of time
between the production of sugar and its marketing;
whereas, in consequence, those concerned generally
have to resort to the financing of their stocks before
they are sold in order to cover their production costs
and, in particular the cost of beet purchases; whereas
this practice should not be prevented in the case of
sugar which constitutes the minimum stock;

Whereas the undertaking required by Article 3 (a) of
Regulation (EEC) No 1488/76 must be set out in
writing; whereas no such undertaking should last
longer than 12 months;

Whereas Article 3 (b) thereof provides that manufac-
turers of raw sugar or certain syrups may be released
from the obligation to maintain their minimum stock
on return for the reimbursement of the profit

included in the intervention price for the costs
involved in maintaining the minimum stock;
whereas, in the case of sugar taken from the
minimum stock, Article 6 (a) thereof provides for the
collection of that part of the amount which represents
the profit referred to in the said Article 3 (b); whereas,
in order to determine that profit, a flat-rate amount
must be fixed for each sugar marketing year;

Whereas the calculation of the said profit is different
for the refiners of preferential sugar and the proces-
sors respectively referred to in Articles 1 (b) and 3 (a)
of the said Regulation; whereas certain special provi-
sions are therefore necessary;

Whereas it may happen that minimum stocks are, at
one and the same time, the subject of different obliga-
tions; whereas, therefore when these obligations are
not met, there must be a method of apportionment in
order to calculate the amount to be collected;

Whereas, in case of *force majeure*, the sugar
concerned may not be available for the minimum
stock; whereas in such cases Member States ought not
to collect that part of the amount referred to in Article
6 (b) of the said Regulation;

Whereas to enable the state of the Community's sugar
supply to be kept under constant observation, Member
States must inform the Commission of all cases which
result in a reduction in minimum stocks;

Whereas the measures provided for in this Regulation
are in accordance with the opinion of the Manage-
ment Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

1. Minimum stocks:

- shall be held at all times throughout each month
concerned,
- shall not include sugar which has been carried
forward in accordance with Article 31 of Regula-
tion (EEC) No 3330/74 as long as the storage costs
for such sugar are not reimbursed.

⁽¹⁾ OJ No L 359, 31. 12. 1974, p. 1.

⁽²⁾ OJ No L 354, 24. 12. 1976, p. 1.

⁽³⁾ OJ No L 167, 26. 6. 1976, p. 11.

⁽⁴⁾ OJ No L 67, 14. 3. 1973, p. 12.

⁽⁵⁾ OJ No L 172, 1. 7. 1976, p. 52.

2. Sugar production for the purpose of Article 1 (a) of Regulation (EEC) No 1488/76 and the minimum stocks referred to in paragraph 1, shall be established in accordance with Article 1 of Regulation (EEC) No 700/73.

Article 2

For the purpose of Article 2 of Regulation (EEC) No 1488/76, a commitment contracted for the purpose of financing minimum stocks without transferring the ownership thereof shall not be considered to be a commitment that might impede the aims of Article 18 of Regulation (EEC) No 3330/74.

Article 3

1. The seller shall ensure that the undertaking by the processor, referred to in Article 3 (a) of Regulation (EEC) No 1488/76, shall reach the competent authority of the Member State concerned in writing not later than the time of the transfer of ownership of the sugar.

Such undertaking shall indicate the quantity of sugar which it covers and the period, which may not exceed 12 calendar months, during which it applies.

2. Where the processor is situated in another Member State, the two Member States shall agree on the control measures to be taken under Article 8 (1).

Article 4

1. A request for release from the obligation to hold minimum stocks, referred to in Article 3 (b) of Regulation (EEC) No 1488/76, may be only be made in respect of a period of 12 calendar months.

2. The profit to be reimbursed by the manufacturer, referred to in the said Article 3 (b), shall be calculated as follows :

The quantity produced within the limit of the maximum quota during the 12 calendar months immediately preceding the month of the request referred to in paragraph 1, shall be multiplied by a coefficient and the result shall then be multiplied by the flat-rate amount referred to in Article 6.

The coefficient shall be the ratio between the quantity of sugar covered by the request for the release from the obligation referred to in paragraph 1 and the quantity to be held as a minimum stock.

Article 5

1. The quantity of sugar considered as having been marketed for the purposes of Article 6 of Regulation

(EEC) No 1488/76 shall be equal to the difference between the quantity which the person concerned is obliged to hold as a minimum stock and the quantity he actually holds for this purpose at the time of calculation.

2. Where a person is obliged to hold minimum stock by virtue of the simultaneous application of at least two of the following provisions of Regulation (EEC) No 1488/76, Article 1 (a), 1 (b), and 3 (a), then, when calculating the charge to be levied, the quantity marketed shall be apportioned in the same ratio as that existing between the quantities to be held by the person concerned under his minimum stock obligations.

3. The charge to be levied under Article 6 of Regulation (EEC) No 1488/76 shall be equal to the sum of the results of the following calculations :

- the quantity produced within the limit of the maximum quota during the 12 calendar months immediately preceding the month of the marketing shall be multiplied by a coefficient and the result then multiplied by the flat-rate amount referred to in Article 6. The coefficient shall be the ratio between the marketed quantity and the quantity to be retained as the minimum stock ;
- the quantity marketed from the minimum stock shall be multiplied by the difference between the threshold price and the intervention price for white sugar on the day of the marketing, plus two units of account per 100 kilograms.

4. Where a refiner of preferential sugar referred to in Article 1 (b) of Regulation (EEC) No 1488/76 or a processor referred to in Article 3 (a) thereof fails to fulfil obligations to hold minimum stock, the amount of the charge to be levied under Article 6 thereof shall be equal to the sum of the results of the following two calculations :

- the marketed quantity multiplied by 10 times the flat-rate amount referred to in the Article ;
- the marketed quantity multiplied by the difference between the threshold price and the intervention price for white sugar on the day of the marketing, plus two units of account per 100 kilograms.

5. The amounts referred to in this Article shall only be collected once in any period of 12 calendar months, in respect of a given marketed quantity.

Article 6

The flat-rate amount referred to in Articles 4 and 5 shall be fixed for each sugar marketing year.

For the purposes of Article 4 the flat-rate amount shall be that valid on the day of the request, and for the purposes of Article 5, the flat-rate amount shall be that valid on the day of the marketing.

Article 7

Where a person having an obligation to hold minimum stocks invokes *force majeure* to justify a failure to respect that obligation, the Member State recognizing such a case shall, only in respect of the month when the case of *force majeure* arose and of each subsequent month and part of a month and in respect of the missing quantity, levy one-twelfth of the amount resulting from the calculation referred to in either the first indent of Article 5 (3) or, where appropriate, the first indent of Article 5 (4). Where the person concerned is in the situation referred to in Article 5 (2) the rules of calculation therein provided shall apply *mutatis mutandis*.

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

Done at Brussels, 28 January 1977.

Article 8

1. Member States shall take all measures necessary to ensure compliance with the system of minimum stocks.

2. Member States shall inform the Commission without delay of all cases in which the amounts referred to in Articles 4, 5 and 7 are to be collected, the quantities and the periods concerned, and the circumstances constituting each case of *force majeure*.

Article 9

This Regulation shall enter into force on 1 February 1977.

Nevertheless it shall apply to the obligations to hold in respect of minimum stocks :

- sugar produced in the French departments of Guadeloupe and Martinique, with effect from 1 June 1977 ;
- preferential sugar, with effect from 1 July 1977.

For the Commission

Finn GUNDELACH

Vice-President