

Commission Regulation (EC) No 952/2006 of 29 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 318/2006 as regards the management of the Community market in sugar and the quota system

## CHAPTER VI

### PUBLIC STORAGE

#### SECTION 4

##### Checks

###### *Article 35*

##### **Sample for checking quality**

Within the time limit referred to in Article 34, four representative samples shall be taken for analysis either by experts approved by the competent authorities of the Member State concerned or by experts agreed upon by the intervention agency and the seller. One sample shall be given to each of the contracting parties. The other two samples shall be kept by the expert or by a laboratory approved by the competent authorities.

Each sample shall be analysed twice and the mean of the results shall be taken as the result of the analysis of the sample concerned.

###### *Article 36*

##### **Disputes over quality**

1 Where there is a difference between the results of the analyses arranged by the seller and the buyer in accordance with Article 35, the arithmetic mean of the two results shall be conclusive for establishing the grade of the sugar concerned if the difference is:

- for Grade 1 sugar, no more than one point for each of the characteristics referred to in Article 32(3)(d),
- for Grade 2 sugar, not greater than two points for each of the characteristics defining that grade which are determined by points.

However, at the request of either of the contracting parties, an arbitral analysis may be carried out by the laboratory referred to in the first paragraph of Article 35. In that case, the arithmetic mean of the result of the arbitral analysis and of the results of the seller's and the buyer's analyses, whichever is closer to the result of the arbitral analysis, shall be adopted.

This mean shall be conclusive for establishing the grade of the sugar concerned. If the result of the arbitral analysis lies midway between the results of the analyses arranged by the seller and the buyer, the arbitral analysis alone shall be conclusive for establishing the grade of the sugar concerned.

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2 Where the difference observed between the results of the analyses arranged by the seller and the buyer in accordance with Article 35 is greater than that indicated in the first or second indent of the first subparagraph of paragraph 1 of this Article, as the case may be, an arbitral analysis shall be carried out by a laboratory approved by the competent authorities. In this case, the procedure provided for in the second subparagraph of paragraph 1 of this Article shall apply.

3 For disputes concerning the upper limit for the colour type of Grade 3 sugar, polarisation, moisture content or invert sugar content, the procedure laid down in paragraphs 1 and 2 shall apply.

However, the differences referred to in paragraph 1 shall be replaced by:

- 1,0 unit of colour type for Grade 3 sugar,
- 0,2°S for polarisation,
- 0,02 % for moisture content,
- 0,01 % for invert sugar content.

4 In the event of a dispute between the contracting parties over the yield of the raw sugar bought in following the application of Article 35, an arbitral analysis shall be carried out by the laboratory referred to in the first subparagraph of that Article. In that case, the arithmetic mean of the result of the arbitral analysis and the results of either the seller's or the buyer's analysis, whichever is closer to the result of the arbitral analysis, shall be adopted.

This mean shall be conclusive for establishing the yield of the raw sugar concerned. If the result of the arbitral analysis lies midway between the results of the analyses arranged by the seller and the buyer, the arbitral analysis alone shall be conclusive for establishing the yield of the raw sugar concerned.

5 The costs of an arbitral analysis as referred to in the second subparagraph of paragraph 1 shall be borne by the contracting party requesting the analysis.

The costs of an arbitral analysis as referred to in paragraph 2 shall be shared equally by the intervention agency and the seller.

The costs of an arbitral analysis as referred to in paragraph 3 shall be borne by the contracting party which contested the result of the analysis made under Article 35.

#### *Article 37*

### **Checks on the places of storage**

The competent authority responsible for control shall carry out unannounced checks on the places of storage in accordance with Article 4 of Commission Regulation (EC) No 2148/96<sup>(1)</sup>.

#### *Article 38*

### **Checks on weight and related costs**

1 The experts referred to in Article 35 shall check the weight of the sugar sold.

The seller shall take all steps necessary to allow the experts to check the weight and to take samples.

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- 2 The costs of checking the weight shall be borne by the seller.
- 3 The cost of the experts who check the weight and do the sampling shall be borne by the intervention agency.
- 4 The quantity can be established on the basis of the stock accounts, which must meet professional specifications and the intervention agency's requirements, provided that:
  - a the stock records show the weight recorded on weighing and the physical quality characteristics at the time of weighing. The weighing may not have been carried out more than 10 months previously;
  - b the storekeeper declares that the lot offered corresponds in all respects to the details contained in the stock records;
  - c the quality characteristics established at the time of weighing are the same as those of the representative samples.

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(1) [OJ L 288, 9.11.1996, p. 6.](#)

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**Changes and effects yet to be applied to :**

- Regulation revoked by [2023 c. 28 Sch. 1 Pt. 2](#)