COMMISSION REGULATION (EEC) No 2990/76

of 9 December 1976

on special detailed rules for the application of the system of import and export licences for sugar

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 organization of the market in sugar [1], as last amended by Regulation (EEC) No 1487/76 [2], and in particular Articles 12 (2), 16 (5), 17 (5), 19 (4) and 47 (2) thereof,

Whereas Commission Regulation (EEC) No 2048/75 of 25 July 1975 on special detailed rules for the application of the system of import and export licences for sugar [3], as last amended by Regulation (EEC) No 719/76 [4], established the special detailed rules for import and export licences to be applied in the sugar sector; whereas this latter Regulation made the licensing system applicable to transactions including the prior exportation of white sugar followed by the importation of raw sugar; whereas it also laid down special provisions in respect of security for import licences for the raw sugar thus imported;

Whereas Regulation (EEC) No 2048/75 has already been amended several times and further amendments are now necessary; whereas, with a view to their textual improvement and clarification, the special rules for the operation of the system of licences in the sugar sector should be consolidated within a new Regulation;

Whereas these detailed rules either supplement or derogate from Commission Regulation (EEC) No 193/75 of 17 January 1975 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products [5], as last amended by Regulation (EEC) No 2219/76 [6];

Whereas the rules originally provided in Regulation (EEC) No 2048/75 prescribe special calculations to determine what amount of the security should be forfeit; whereas, as a result of the monetary problems, those calculations have become very complex and should therefore be simplified;

Whereas the system of prior exportation originally provided for by Regulation (EEC) No 2048/75 led in certain cases to the provision of a double security for the same transaction; whereas it should be made possible, subject to certain conditions, for the trader concerned to mitigate the effects of having to provide such double security;

Whereas it is necessary to fix the amount of the security for import licences for preferential sugar, in respect of which detailed import rules are laid down by Regulation (EEC) No 2782/76 [7];

Whereas the measures provided for in his Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down special detailed rules for the application of the system of import and export licences established by Article 12 of Regulation (EEC) No 3330/74.

Article 2

1. Where the refund or levy on exportation is fixed in pursuance of an invitation to tender held within the Community, the application for an export licence shall be lodged with the competent authority of the Member State in which the notice of award of contract was issued.

2. Section 12 of the licence application and of the licence shall contain one of the following endorsements:

— 'tendering Regulation (EEC) No ... (OJ No ..... of ...)
time limit for submission of tenders expires ...';

— 'règlement d'adjudication (CEE) n° ... (JO n° ... du ...)
délai de présentation des offres expirant le ...';

— 'forordning om licitation (EØF) nr. ... (EFT nr. ... af ...)
fristen for indgivelse af tilbud udløber den ...';

(1) OJ No L 359, 31. 12. 1974, p. 1.
(2) OJ No L 167, 26. 6. 1976, p. 9.
(3) OJ No L 213, 11. 8. 1975, p. 31.
(4) OJ No L 84, 31. 3. 1976, p. 27.
(5) OJ No L 25, 31. 1. 1975, p. 10.
(6) OJ No L 250, 14. 9. 1976, p. 5.
(7) OJ No L 318, 18. 11. 1976, p. 13.

— 'Ausschreibung — Verordnung (EWG) Nr. ... (ABl. Nr. ... vom ...)
Ablauf der Angebotsfrist am ...';

— 'regolamento di gara (CEE) n. ... (GU n. ... del ...)
termine di presentazione delle offerte scaduto il ...';

— 'verordening m.b.t. inschrijving (EEG) nr ... (PB nr. ... van ...)
indieningstermijn aanbiedingen eindigt op ...'.

3. The export licence shall be issued for the quantity entered on the relevant notice of award of contract. Section 18 shall indicate the rate of the refund or export levy, as stated in that notice of award, expressed in the currency of the Member State issuing the licence. To this end, it shall contain one of the following endorsements:

— 'rate of refund applicable: ...';
— 'taux de la restitution applicable: ...';
— 'den restitutionssats, der skal anvendes: ...';
— 'gültiger Erstattungssatz: ...';
— 'tasso di restituzione applicabile: ...';
— 'toe te passen restitutievoet: ...';

or, alternatively:

— 'rate of export levy applicable: ...';
— 'taux du prélèvement à l'exportation applicable: ...';
— 'størrelsen af den afgift, der skal opkræves ved udførsel: ...';
— 'gültiger Satz der Ausfuhrabschöpfung: ...';
— 'tasso del prelievo all'esportazione applicabile: ...';
— 'toe te passen heffingsvoet bij uitvoer: ...'.

4. Article 19 of Regulation (EEC) No 193/75 shall not be applicable when this Article applies.

Article 3

1. For white or raw sugar, undenatured, produced in excess of the maximum quota and to be exported in accordance with Article 26 (1) of Regulation (EEC) No 3330/74, Section 12 of the application and of the licence shall contain one of the following endorsements:

— 'for export under Article 26 (1) of Regulation (EEC) No 3330/74';

— 'à exporter conformément à l'article 26 paragraphe 1 du règlement (CEE) n° 3330/74';

— 'til udførsel i medfør af artikel 26 stk. 1 i forordning (EØF) nr. 3330/74';

— 'gemäß Artikel 26 Absatz 1 der Verordnung (EWG) Nr. 3330/74 auszuführen';

— 'da esportare a norma dell'articolo 26, paragrafo 1, del regolamento (CEE) n. 3330/74';

— 'uit te voeren overeenkomstig artikel 26, lid 1, van Verordening (EEG) nr. 3330/74'.

Section 18 of the licence shall contain one of the following endorsements:

— 'for export without refund or levy';
— 'à exporter sans restitution ni prélèvement';
— 'udføres uden restitution eller afgift';
— 'ohne Erstattung und ohne Abschöpfung auszuführen';
— 'da esportare senza restituzione né prelievo';
— 'zonder restitutie of heffing uit te voeren'.

2. Paragraph 1 shall not apply to sugar on which pursuant to Article 26 (2) of Regulation (EEC) No 3330/74 the export levy provided for in Article 17 of that Regulation is charged.

Article 4

An export licence may be issued for the sugar referred to in Article 3 (1) only after the sugar manufacturer in question has provided the competent body with proof that the quantity for which the licence is requested or an equivalent quantity has actually been produced in excess of the maximum quota for the undertaking concerned, account being taken of any quantities carried forward to the sugar year in question.

Article 5

1. An import licence for products specified in Article 1 (1) (a), (b) and (d) of Regulation (EEC) No 3330/74 shall be valid for 60 days from its day of issue within the meaning of Article 9 (1) of Regulation (EEC) No 193/75.

2. An import licence for products specified in Article 1 (1) (c) of Regulation (EEC) No 3330/74 shall be valid for three months from its day of issue within the meaning of Article 9 (1) of Regulation (EEC) No 193/75.

3. Subject as otherwise decided under the terms of the relevant invitation to tender, an export licence for products specified in Article 1 (1) of Regulation (EEC) No 3330/74 shall be valid:

— for three months from its day of issue within the meaning of Article 9 (1) of Regulation (EEC) No 193/75,

— where Article 9 of this Regulation is applied, for three months from its actual date of issue.

However, in the case of the products specified in Article 1 (1) (a) of Regulation (EEC) No 3330/74, if on the day when the application is lodged no refund applies, the export licence for such products, with the exception of the sugar referred to in Article 3 (1), shall be valid for 14 days from its actual date of issue.

The provisions of the previous subparagraph shall not apply to export licences for undenatured white sugar issued for a quantity not exceeding 200 kilogrammes. Such export licences may be used only where the total quantity of sugar concerned does not exceed 200 kilogrammes.

Article 6

In respect of preferential sugar to be imported into the Community in accordance with Regulation (EEC) No 2782/76, the application for an import licence and the licence itself shall contain :

— in Section 12 one of the following endorsements :
  — 'preferential sugar (Regulation (EEC) No 2782/76)' ;
  — 'sucre préférentiel (règlement (CEE) n° 2782/76)' ;
  — 'præferencesukker (Forordning (EØF) nr. 2782/76)' ;
  — 'Präferenzzucker (Verordnung (EWG) Nr. 2782/76)' ;
  — 'zucchero preferenziale (regolamento (CEE) n. 2782/76)' ;
  — 'preferentiële suiker (Verordening (EEG) nr. 2782/76)' ;
— in Section 14, the name of the state, country or territory of origin of the product.

The issue of an import licence shall make it obligatory to import in accordance with Regulation (EEC) No 2782/76 from the state, country or territory specified in the licence.

Article 7

By way of derogation from the third indent of Article 4 (3) of Regulation (EEC) No 193/75, no licence shall be required for operations relating to a quantity not exceeding 100 kilogrammes.

Article 8

1. The security for the licence for the products referred to in Article 1 of Regulation (EEC) No 3330/74 shall be, per 100 kilogrammes net, as follows :

(a) where the licence is for import or export without advance fixing of the import or export levy or of the refund :
  — 0·20 unit of account in respect of products falling within tariff heading No 17.01,
  — 0·02 unit of account in respect of products falling within tariff heading No 12·04 or 17.03,
  — 0·20 unit of account in respect of products falling within tariff heading No 17.02 or 17.05 ;

(b) 0·20 unit of account if the licence is for export as referred to in Article 3 (1) ;

(c) where the licence is for import with advance fixing of the levy or subsidy, and subject as otherwise provided under the terms of the relevant invitation to tender :
  — 2·50 units of account in respect of products falling within tariff heading No 17.01,
  — 0·60 unit of account in respect of products falling within tariff heading No 17.03 where the levy is other than zero,
  — 0·12 unit of account in respect of products falling within tariff heading No 17.03 where the levy is zero ;

(d) where the licence is for export with advance fixing of the refund or with refund or levy fixed under an invitation to tender opened in the Community, and subject as otherwise provided under the terms of that invitation to tender :
  — four units of account in respect of products falling within tariff heading No 17.01,
  — 0·60 unit of account in respect of products falling within tariff heading No 17.03,
  — 0·20 unit of account in respect of products falling within tariff heading No 17.02 or 17.05 ;

(e) 0·20 unit of account if the licence is for import as referred to in Article 6.

2. By way of derogation from paragraph 1 (a) the security for export licences in respect of white and raw sugar for which the period of validity has been reduced to 14 days pursuant to the second subparagraph of Article 5 (3) shall be three units of account per 100 kilogrammes net.

Article 9

Without prejudice to the application of Article 22 of Regulation (EEC) No 3330/74, export licences for sugars falling within tariff heading No 17.01, other than those to which the provisions of Article 3 (1) apply, shall be issued on the third working day following the day on which the application therefor is lodged.

Article 10

1. By way of derogation from Article 4 (1) of Regulation (EEC) No 193/75, where, following authorization, either under Article 25 of Council Directive 69/73/EEC of 4 March 1969 [1], or under Article 9 of Commission Regulation (EEC) No 645/75 of 13 March 1975 [2], the prior exportation of white sugar falling within tariff heading No 17.01 is followed by the importation of raw sugar falling within tariff heading No 17.01, licences shall be required to export the white sugar and to import the raw sugar.

[1] OJ No L 58, 8. 3. 1969, p. 1.
[2] OJ No L 67, 14. 3. 1975, p. 16.

2. Section 12 of the application for an export licence and of the export licence for white sugar, and of the application for an import licence and of the import licence for raw sugar, shall contain one of the following endorsements :

— 'EX/IM, Article 25, Directive — inward processing,
— licence valid in ... (issuing Member State)' ;

— 'EX/IM, artikel 25, Direktiv — aktiv forædling,
— licens gyldig i ... (udstedende medlemsstat)' ;

— 'EX/IM, Artikel 25, Richtlinie — aktiver Veredelungsverkehr,
— Lizenz gültig in ... (erteilender Mitgliedstaat)' ;

— 'EX/IM, article 25, directive — perfectionnement actif,
— certificat valable en ... (État membre de délivrance)' ;

— 'EX/IM, articolo 25, direttiva — perfezionamento attivo,
— titolo valido in ... (Stato membro di rilascio)' ;

— 'EX/IM, artikel 25, richtlijn — actieve veredeling,
— certificaat geldig in ... (Lid-Staat van afgifte).

Section 12 of the export licence shall also contain the number of the corresponding import licence, and Section 12 of the import licence the number of the corresponding export licence.

The application for an export licence for white sugar shall not be accepted unless the authorization referred to in paragraph 1 is produced and at the same time an application for an import licence for raw sugar is lodged.

The application for an import licence shall relate to a quantity of raw sugar of the standard quality which, having regard to its yield, corresponds to the quantity of white sugar shown on the application for an export licence. The yield of the raw sugar shall be calculated by deducting 100 from the amount obtained by multiplying by two the degree of polarization of the sugar. Where the imported raw sugar does not correspond to the standard quality, the quantity of raw sugar to be imported under the licence shall be calculated by multiplying the quantity of raw sugar of the standard quality referred to in the licence by a corrective factor. The corrective factor shall be obtained by dividing 92 by the percentage yield of the raw sugar actually imported.

3. By way of derogation from Article 5 (1) and (3), the export licence for white sugar and the import licence for raw sugar shall be valid :

— until 30 June where the application has been lodged, within the meaning of Article 6 (1) of Regulation (EEC) No 193/75, on or after 1 October of the sugar marketing year in question,

— until 30 September where the application has been lodged, within the meaning of Article 6 (1) of Regulation (EEC) No 193/75, on or after 1 July of the sugar marketing year in question.

4. By way of derogation from Article 8 (1) (a), and subject to the following subparagraphs, the security for an import licence as referred to in paragraph 1 shall be eight units of account per 100 kilogrammes net.

However, the amount of the said security shall be adjusted as shown in the Annex hereto by reference to the amount of the export levy on raw sugar applicable on the day on which the application for the import licence is lodged and on each Monday during the period of validity of the licence.

Where the application of the preceding subparagraph results in an increase in the security, the applicant for the import licence shall be required to make the appropriate increase either on the day on which his application is lodged or within three working days after the relevant Monday. On request by the holder of the import licence the competent authority shall release forthwith that part of the security no longer required as a result of any downward adjustment thereof.

Moreover, at the request of the applicant, which must be made at the same time as the application for the import licence, and on production of the relevant documentary proof, the competent authority shall reduce the security required in pursuance of the second and third subparagraphs of this paragraph to the amount of the security lodged, pursuant to Article 10 of Commission Directive 75/349/EEC of 26 May 1975 [1] or to Article 9 (3) of Regulation (EEC) No 645/75, upon the prior exportation of the corresponding amount of white sugar.

The amount of the security as adjusted in pursuance of this paragraph may in no case, however, be less than the amount specified in the first subparagraph hereof.

5. Article 2 (4) of Regulation (EEC) No 193/75 shall not apply to export licences as referred to in paragraph 1. Article 18 (3) of Regulation (EEC) No 193/75 shall not apply to import licences as referred to in paragraph 1.

6. By way of derogation from Articles 2 (5) and 18 (2) of Regulation (EEC) No 193/75 :

(a) the whole of the security in respect of the import licence shall be released only where the quantities of raw sugar actually imported are equal to or greater than the quantities of white sugar actually exported, taking into account the yield of the raw sugar ;

[1] OJ No L 156, 18. 6. 1975, p. 25.

(b) where the quantities of raw sugar actually imported are less, having regard to its yield, than the quantities of white sugar actually exported, the security shall be forfeit in an amount corresponding to the shortfall;

(c) where the amount of a security has been adjusted under the second subparagraph of paragraph 4 and there has been no request for a reduction thereof under the fourth subparagraph of paragraph 4, then any part of the amount of such adjustment forfeit under subparagraph (b) hereof shall be reduced by any amount forfeit under Article 9 (3) of Regulation (EEC) No 645/75 or under Article 10 of Commission Directive 75/349/EEC of 26 May 1975. Such reduction shall be made only at the request of the party concerned and after production of appropriate supporting documents;

(d) where, when paragraph 4 applies, the holder of an import licence fails to increase the security within the prescribed period, the said security, adjusted as necessary in accordance with that paragraph, shall, except in case of *force majeure*, be forthwith forfeited in its entirety.

However, where no request has been made under the fourth subparagraph of paragraph 4, the amount forfeited shall on expiry of the import licence be reduced as provided in (c) hereof.

7. By way of derogation from Article 9 (2) of Commission Directive 75/349/EEC of 26 May 1975 and from Article 9 (4) of Regulation (EEC) No 645/75, the time limit within which the importation of raw sugar corresponding to a previous exportation of white sugar must be carried out shall be the same as the period of validity of the import licence for raw sugar.

8. By way of derogation from Article 3 of Regulation (EEC) No 193/75, the rights deriving from export and import licences as referred to in paragraph 1 shall not be transferable.

9. In the event of cancellation under Article 5 (3) of Regulation (EEC) No 193/75 in respect of any licence as referred to in paragraph 1, such cancellation shall apply simultaneously both to the import licence and to the export licence.

Article 11

1. Regulation (EEC) No 2048/75 is hereby repealed.

2. All references in Community instruments to Articles of Regulation (EEC) No 2048/75 shall be treated as references to the relevant Articles of this Regulation.

Article 12

This Regulation shall enter into force on the 10th day following its publication in the *Official Journal of the European Communities.*

However, Article 13 (2) of Regulation (EEC) No 2048/75 shall remain applicable as regards exports in respect of which export licences were issued before the date of entry into force of this Regulation.

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

Done at Brussels, 9 December 1976.

For the Commission

P. J. LARDINOIS

Member of the Commission

ANNEX

Calculation of the adjustment of the security as provided for in Article 10

(units of account per 100 kilogrammes net)

Amount of export levy on raw sugar (subheading 17.01 B) requiring an adjustment of security	Amount of upward or downward adjustment of the security
1	2
0 to 3·00	—
3·01 to 6·00	3·00
6·01 to 9·00	6·00
9·01 to 12·00	9·00
and so on by increases of three units of account each time	