COMMISSION REGULATION (EEC) No 2630/81

of 10 September 1981

on special detailed rules for the application of the system of import and export licences 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 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector [1], and in particular Articles 13 (2), 17 (5), 18 (5) 19 (7) and 37 (2) thereof,

Whereas Commission Regulation (EEC) No 2990/76 [2], as last amended by Regulation (EEC) No 342/81 [3], laid down special detailed rules for the application of the system of import and export licences for sugar; whereas the provisions of that Regulation have been amended many times and should now be substantially modified because, on the one hand new basic rules for the organization of the markets in the sugar and isoglucose sectors have been laid down and, on the other, of the need to review certain provisions regarding the security for, and the duration of validity of licences; whereas, therefore, in the interests of clarity and administrative efficiency these provisions should be consolidated and adapted accordingly and Regulations (EEC) No 2990/76 and (EEC) No 1470/77 [4] should be repealed;

Whereas, because of the specific character of the sugar and isoglucose sectors, these detailed rules either supplement, or derogate from, Commission Regulation (EEC) No 3183/80 of 3 December 1980 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 amended by Regulation (EEC) No 2620/81 [6];

Whereas, in the light of experience and in order to ensure the proper management of the Community markets in sugar and isoglucose, special harmonized conditions should be laid down with respect to the periods of validity of export licences, in particular those applying to white sugar, raw sugar and isoglucose;

Whereas it is necessary to fix the levels of security required for the different products covered by Regulation (EEC) No 1785/81; whereas, however, the extent of price fluctuations on the world markets in white and raw sugars can seriously interfere with the management of the Community market in these sugars when, because of such fluctuations, the obligations placed on the operators by the export licences which they have requested are not fulfilled; whereas, therefore, provisions should be laid down concerning the security required for the export licences with advance fixing of the refund referred to in Article 2 of Council Regulation (EEC) No 766/68 of 18 June 1968 laying down general rules for granting export refunds on sugar [7], as last amended by Regulation (EEC) No 1489/76 [8], analogous to those adopted for licences issued under the terms of invitations to tender for white sugar and raw sugar;

Whereas Article 8 (4) of Regulation (EEC) No 3183/80 provides that where the quantity imported or exported is greater by not more than 5 % than the quantity indicated on the licence it shall be considered to have been imported or exported under that licence; whereas, in the case of an export of C sugar and in order to permit the proper management of the sugar market so as to avoid the risk of discrimination between the parties concerned, export refunds as well as export levies should apply to the quantity exported in excess of the quantity of sugar indicated on the licence, subject to the tolerance limit of 5 %;

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

This Regulation lays down special detailed rules for the application of the system of import and export licences established by Article 13 of Regulation (EEC) No 1785/81.

[1] OJ No L 177, 1. 7. 1981, p. 4.
[2] OJ No L 341, 10. 12. 1976, p. 14.
[3] OJ No L 38, 11. 2. 1981, p. 8.
[4] OJ No L 162, 1. 7. 1977, p. 11.
[5] OJ No L 338, 13. 12. 1980, p. 1.
[6] OJ No L 256, 10. 9. 1981, p. 14.
[7] OJ No L 143, 25. 6. 1968, p. 6.
[8] OJ No L 167, 26. 6. 1976, p. 13.

Article 2

1. Where the refund or levy on exportation is fixed pursuant to 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 tender was issued.

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

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

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

— 'κανονισμός διαγωνισμοῦ (ΕΟΚ) ἀριθ. ..... (ΕΕ ἀριθ. ..... τῆς .....),
προθεσμία παρουσιάσεως τῶν προσφορῶν ἐκπνέουσα τήν .....';

— '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 .....';

— 'regolamento di gara (CEE) n ..... (GU n .....dei .....),
termine di presentazione delle offerte scade 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 tender. Section 18a shall indicate the rate of the export refund or export levy, as stated in that notice, expressed in the currency of the Member State issuing the licence. To this end, it shall contain one of the following endorsements :

— 'restitutionssats : .....'

— 'gültiger Erstattungssatz : .....',

— 'ἐφαρμοζόμενο ὕψος ἐπιστροφῆς .....',

— 'rate of refund applicable : .....',

— 'taux de la restitution applicable : .....',

— 'tasso di restituzione applicabile : .....',

— 'toe te passen restitutievoet : .....'.

or alternatively :

— 'eksportafgifssats : .....',

— 'gültiger Satz der Ausfuhrabschöpfung : .....',

— 'ἐφαρμοζόμενο ὕψος εἰσφορᾶς κατά τήν ἐξαγωγή .....',

— 'rate of export levy applicable : .....',

— 'taux du prélèvement à l'exportation applicable : .....',

— 'tasso del prelievo all'esportazione applicabile : .....',

— 'toe te passen heffingsvoet bij uitvoer : .....'.

4. When this Article applies Article 43 of Regulation (EEC) No 3183/80 shall not apply.

Article 3

1. For C sugar and C isoglucose intended for export in accordance with Article 26 (1) of Regulation (EEC) No 1785/81, Section 12 of the licence application and of the licence itself shall contain one of the following endorsements :

— 'til udførsel i medfør af artikel 26, stk. 1, i forordning (EØF) nr. 1785/81',

— 'gemäß Artikel 26 Absatz 1 der Verordnung (EWG) Nr. 1785/81 auszuführen',

— 'πρός ἐξαγωγή σύμφωνα μέ τό ἄρθρο 26 παράγραφος 1 τοῦ κανονισμοῦ (ΕΟΚ) ἀριθ. 1785/81',

— 'for export under Article 26 (1) of Regulation (EEC) No 1785/81',

— 'à exporter conformément à l'article 26 paragraphe 1 du règlement (CEE) n° 1785/81',

— 'da esportare a norma dell'articolo 26, paragrafo 1, del regolamento (CEE) n. 1785/81',

— 'uit te voeren overeenkomstig artikel 26, lid 1, van Verordening (EEG) nr. 1785/81'.

For C sugar and C isoglucose the licence issued shall be valid solely for export from the territory of the Member State in which the product was produced.

The export refunds or export levies shall apply to the quantities exported in accordance with the tolerance specified in Article 8 (4) of Regulation (EEC) No 3183/80.

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

— 'udføres uden restitution eller afgift ..... (den mængde, for hvilken denne, licens er udstedt) kg ; licens gyldig i ..... (medlemsstat)' ;

— 'ohne Erstattung und ohne Abschöpfung auszuführen ..... (Menge für die diese Lizenz erteilt wurde) kg ; Lizenz gültig in ..... (Mitgliedstaat)' ;

— 'πρός ἐξαγωγή χωρίς ἐπιστροφή οὔτε εἰσφορά ..... (ποσότητα γία τήν ὁποία ἐξεδόθη τό πιστοποιητικό αὐτό) χγρ· πιστοποιητικό ἰσχύον εἰς ..... (Κράτος μέλος)' ;

— 'for export without refund or levy ..... (quantity for which the licence is issued kg ; licence valid only in ..... (Member State)' ;

— 'à exporter sans restitution ni prélèvement ..... (quantité pour laquelle ce certificat a été délivré) kg ; certificat valable en ..... (État membre)' ;

— 'da esportare senza restituzione ne prelievo ..... (quantitativo per il quale il titolo in causa e stato rilasciato) kg; titolo valido in ..... (Stato membro)';

— 'zonder restitutie of heffing uit te voeren ..... (hoeveelheid waarvoor dit certificaat werd afgegeven) kg; certificaat geldig in ..... (Lid-Staat)'.

2. Paragraph 1 shall not apply to C sugar when, in accordance with Article 26 (2) of Regulation (EEC) No 1785/81, it is subject to the export levy referred to in Article 18 of that Regulation.

Article 4

An export licence for C sugar and C isoglucose may be issued only after the 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 A and B quotas of the undertaking concerned, account being taken, as regards sugar, of any quantities carried forward to the marketing year in question.

Article 5

1. (a) Import licences for quantities exceeding 10 tonnes of the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81 shall be valid for 60 days from the actual day of issue;

(b) Import licences for the products listed in Article 1 (1) (b), (d), (f) and (g) of Regulation (EEC) No 1785/81 and those for quantities not exceeding 10 tonnes of the products listed in Article 1 (1) (a) of that Regulation shall be valid for 60 days from the day of issue within the meaning of Article 21 (1) of Regulation (EEC) No 3183/80.

2. Import licences for the products listed in Article 1 (1) (c) of Regulation (EEC) No 1785/81 shall be valid from the day of issue within the meaning of Article 21 (1) of Regulation (EEC) No 3183/80 until the end of the third month following that of issue.

3. Without prejudice to other periods of validity provided for under the terms of an invitation to tender opened in the Community:

(a) export licences for the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, other than C sugar relating to quantities exceeding 10 tonnes shall be valid from the actual day of issue:

— until the end of the third month following that of issue, or

— for 30 days from that date where no refund has been fixed either under the periodic system or by tender,

provided that the period of validity shall not extend beyond 30 September next following the actual day of issue;

(b) export licences:

— for C sugar,

— for quantities of the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81 not exceeding 10 tonnes,

— for the products listed in Article 1 (1) (b) (c) (d), (f) and (g) of the aforesaid Regulation,

shall be valid from the day of issue within the meaning of Article 21 (1) of Regulation (EEC) No 3183/80 until the end of the third month following that of issue.

In the case referred to in the second indent the party concerned may not use more than one such licence for the same export.

Article 6

In respect of preferential sugar to be imported into the Community in accordance with Regulation (EEC) No 2782/76 [1], the licence application and the licence itself shall contain:

— in Section 12 one of the following endorsements:

— 'præferencesukker (Forordning (EØF) nr. 2782/76)',

— 'Präferenzzucker (Verordnung (EWG) Nr. 2782/76)',

— 'Προτιμησιακή ζάχαρη (κανονισμός (ΕΟΚ) άριθ. 2782/76)',

— 'preferential sugar (Regulation (EEC) No 2782/76)',

— 'sucre préférentiel (règlement (CEE) n° 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.

[1] OJ No L 318, 18. 11. 1976, p. 13.

Article 7

No licence shall be required and none may be presented for operations relating to a quantity not exceeding 100 kilograms.

Article 8

1. The security for licences for the products listed in Article 1 (1) (a) to (d), (f) and (g) of Regulation (EEC) No 1785/81 shall be per 100 kilograms net of sugar and per 100 kilograms net dry matter of isoglucose as follows :

(a) where the licence is for import or export without advance fixing of the import or export levy or of the refund :
   — 0·25 ECU in respect of products falling within Common Customs Tariff heading Nos 17.01, 17.02 and 21.07,
   — 0·05 ECU in respect of products falling within Common Customs Tariff heading Nos 12.04 and 17.03.

   However, the security for export licences for white sugar and for raw sugar the validity of which is limited to 30 days in accordance with the second indent of Article 5 (3) (a) shall be 3·50 ECU ;

(b) 0·25 ECU where the licence is for the export of C sugar or C isoglucose ;

(c) where the licence is for import with advance fixing of the levy or refund and subject as otherwise provided under the terms of an invitation to tender opened in the Community ;
   — 3·00 ECU in respect of products falling within Common Customs Tariff heading No 17.01,
   — 0·75 ECU in respect of products falling within Common Customs Tariff heading No 17.03 where the levy is not zero,
   — 0·15 ECU in respect of products falling within Common Customs Tariff heading No 17.03 where the levy is zero ;

(d) where the licence is for export with advance fixing of the refund or levy and subject as otherwise provided for under the terms of an invitation to tender opened in the Community :
   — 9·00 ECU in respect of the products falling within Common Customs Tariff heading No 17.01,
   — 0·75 ECU in respect of the products falling within Common Customs Tariff heading No 17.03,
   — 0·25 ECU in respect of the products falling within Common Customs Tariff subheadings 17.02 C, D II, E and F I and 21.07 F IV,
   — 1·00 ECU in respect of products falling within Common Customs Tariff subheadings 17.02 D I and 21.07 F III ;

(e) 0·25 ECU for the import licences referred to in Article 6.

2. Except in case of *force majeure,* where the obligation to export the products falling within Common Customs Tariff heading No 17.01 created by export licences with advance fixing of the refund, other than those issued in connection with an invitation to tender opened in the Community, is not fulfilled and where the security referred to in the first indent of paragraph 1 (d) is less than the export refund referred to in Article 2 of Regulation (EEC) No 766/68 in force on the last day of validity of the licence following reduction of the refund fixed in advance as indicated on the licences, then, within the conditions as to time limits laid down in Article 33 of Regulation (EEC) No 3183/80 and by way of a supplementary security for the quantity in respect of which the obligation has not been fulfilled, the licence holder shall be charged an amount equal to the difference between the result of this calculation and the security referred to in the first indent of paragraph 1 (d).

Article 9

Without prejudice to the application of Article 22 of Regulation (EEC) No 1785/81, export and import licences for sugar, other than C sugar, falling within Common Customs Tariff heading No 17.01 which relate to quantities exceeding 10 tonnes shall be issued on the third working day following the day on which the application for them is lodged.

In the case of licences which relate to quantities not exceeding 10 tonnes, the party concerned may not lodge on the same day, and with the same competent authority, more than one application for such licences.

Article 10

1. By way of derogation from Article 2 of Regulation (EEC) No 3183/80, where, following authorization under Article 25 of Council Directive 69/73/EEC [1] or under Article 9 of Commission Regulation (EEC) No 645/75 [2], the prior exportation of white sugar falling within Common Customs Tariff heading No 17.01 is followed by the importation of raw sugar falling within Common Customs Tariff heading No 17.01, then licences shall be required to export the white sugar and to import the raw sugar.

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, artikel 25, Direktiv — aktiv forædling,
   — licens gyldig i ..... (udstedende medlemsstat)' ;
— 'EX/IM, Artikel 25, Richtlinie — aktiver Veredelungsverkehr,
   — Lizenz gültig in ..... (erteilender Mitgliedstaat)' ;
— 'EX/IM, ἄρθρο 25, ὁδηγία τελειοποιήσεως πρός ἐπανεξαγωγή,
   — πιστοποιητικό ἰσχύον στ ..... (Κράτος μέλος ἐκδόσεως)',

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

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

— '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 the relevant section 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, 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 14 (1) of Regulation (EEC) No 3183/80, on or after 1 October of the marketing year in question,

— until 30 September where the application has been lodged, within the meaning of Article 14 of Regulation (EEC) No 3183/80, on or after 1 July of the marketing year in question.

4. By way of derogation from Article 8 (1) (a), and without prejudice to the following subparagraphs, the security for an import licence as referred to in paragraph 1 shall be 9·50 ECU per 100 kilograms 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 [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 8 (4) of Regulation (EEC) No 3183/80 shall not apply to the export licences referred to in paragraph 1. Artice 33 (3) of Regulation (EEC) No 3183/80 shall not apply to the import licences referred to in paragraph 1.

6. By way of derogation from Articles 8 (5) and 33 (2) of Regulation (EEC) No 3183/80:

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

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

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

(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 (b) hereof shall be reduced by any amount forfeit under Article 9 (3) of Regulation (EEC) No 645/75 or under Article 10 of Directive 75/349/EEC. Such a reduction shall be made only at the request of the party concered 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, then the said security, adjusted as necessary in accordance with that paragraph, shall, except in case of *force majeure*, be forthwith forfeited in its entirety.

If, however, a request has been made under the fourth subparagraph of paragraph 4, then 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 Directive 75/349/EEC and from Article 9 (4) of Regulation (EEC) No 645/75, the time limit within which the import of raw sugar corresponding to a previous export of white sugar must be carried out shall be the same as the period of validity of the import licence for the raw sugar.

8. By way of derogation from Article 9 of Regulation (EEC) No 3183/80, the rights deriving from the export and import licences referred to in paragraph 1 shall not be transferable.

9. A cancellation under Article 12 (2) of Regulation (EEC) No 3183/80 shall apply simultaneously to both the import licence and the export licence as referred to in paragraph 1.

Article 11

1. Regulations (EEC) No 2990/76 and (EEC) No 1470/77 are hereby repealed.

2. All reference in Community instruments to Articles of Regulations (EEC) No 2990/76 and (EEC) No 1470/77 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*.

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

Done at Brussels, 10 September 1981.

For the Commission

Poul DALSAGER

Member of the Commission

ANNEX

Calculation of the adjustment of the security referred to in Article 10

(ECU per 100 kilograms net)

Amount of export levy on raw sugar (subheading 17.01 B of the Common Customs Tariff) requiring an adjustment of the security	Amount of upward or downward adjustment of the security
1	2
0 to 3·50	—
3·51 to 7·00	3·50
7·01 to 10·50	7·00
10·51 to 14·00	10·50
and so on by increases of 3·50 ECU each time	