COMMISSION REGULATION (EC) No 1422/95

of 23 June 1995

laying down detailed implementing rules for the import of molasses in the sugar sector and amending Regulation (EEC) No 785/68

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 Articles 14 (2), 15 (4), 15a, 16 (4) and 39 thereof,

Whereas, as a result of the Agreement on Agriculture concluded as part of the Uruguay Round of multilateral trade negotiations, hereinafter referred to as 'the Agreement', certain Community rules on imports need to be adjusted from 1 July 1995 in the sugar sector, and in particular with regard to molasses;

Whereas, since the Agreement converts all measures restricting imports of agricultural products into rates of duties of the common customs tariff, hereinafter referred to as 'customs tariff duties', the variable import levies provided for by the common organization of the markets in the sugar sector must be abolished; whereas this will entail the establishment of special detailed implementing rules for the suspension of import duties, the establishment of additional import duties, hereinafter referred to as 'additional duties', and the determination of the cif prices of beet molasses and cane molasses;

Whereas it is desirable that the implementation of these rules, which is the responsibility of the Member States, should be carried out in the most centralized manner possible;

Whereas to enable the best possible management and the necessary transparency for operators on the molasses market, provision should be made for, firstly, determining and fixing each week, in accordance with Commission Regulation (EEC) No 785/68 of 26 June 1968 determining the standard quality and laying down detailed rules for calculating the cif price for molasses (3), the cif prices for molasses referred to in Article 15 (3) of Regulation (EEC) No 1785/81, hereinafter referred to as 'representative prices', on the world market for molasses and, secondly, establishing additional duties pursuant to the relevant provisions of the Agreement; whereas for these purposes, and having regard to the production shortfall in the Community, it is desirable to provide that, when the conditions laid down in Article 14 (2) of Regulation (EEC) No 1785/81 are fulfilled, the suspension of import duties shall apply immediately, except where a decision is taken to the contrary where there is a risk of any disturbance on the Community molasses market as a result of that suspension;

Whereas Commission Regulation (EEC) No 1389/90 (4) establishes arrangements for the administration of a Community quota of 600 000 tonnes of molasses originating in the African, Caribbean and Pacific States or in the overseas countries and territories, within which quota a reduced levy would be applied to imports into the Community; whereas for the same reasons as set forth above, that levy should be converted into an import duty; whereas, however existing administrative conditions should be maintained; whereas since, from 1 July 1995, the import duty on molasses will be lower than the levy which could be applied before that date, the import duty on the abovementioned quota should be set at zero and it should not be permitted to impose additional duties on that quota;

Whereas Commission Regulations (EEC) No 1411/70 (5) and (EEC) No 1389/90 should therefore be repealed with effect from 1 July 1995;

Whereas trends in the import of molasses into the Community show that the port of Amsterdam has become the Community frontier crossing point; whereas Regulation (EEC) No 785/68 should therefore be amended;

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

1. The additional duties referred to in Article 15 (1) of Regulation (EEC) No 1785/81 shall be applied to molasses falling within CN codes 1703 10 00 and 1703 90 00.

2. For the purposes of this Regulation, representative prices for molasses on the world market or on the Community import market as referred to in Article 15 (3) of Regulation (EEC) No 1785/81 shall mean the cif prices for those products established and fixed by the Commission pursuant to Regulation (EEC) No 785/68.

(1) OJ No L 177, 1. 7. 1981, p. 4.
(2) OJ No L 110, 17. 5. 1995, p. 1.
(3) OJ No L 145, 27. 6. 1968, p. 12.
(4) OJ No L 133, 24. 5. 1990, p. 41.
(5) OJ No L 156, 17. 7. 1970, p. 29.

These prices shall normally be fixed every week in accordance with the procedure laid down in Article 41 of Regulation (EEC) No 1785/81. They shall be applicable until a subsequent fixing enters into force.

3. When the Commission is unable to establish a representative price specific to beet molasses falling within CN code 1703 90 00 for a particular week because of lack of information on the purchase possibilities for this type of molasses, the specific representative price previously in force shall continue to apply.

However, this representative price shall not apply for a period of more than four weeks. After that, the representative price for beet molasses falling within CN code 1703 90 00 shall be established on the basis of the representative price in force for cane molasses under CN code 1703 10 00 plus a flat rate of ECU 0,30 per 100 kilograms, taking account of the trigger price for beet molasses.

Article 2

For 100 kilograms of molasses of the standard quality referred to in Article 1 of Regulation (EEC) No 785/68, the trigger price referred to in Article 15 (2) of Regulation (EEC) No 1785/81 shall be equivalent to :

(a) ECU 7,90 for molasses falling within CN code 1703 10 00 ;

(b) ECU 8,20 for molasses falling within CN code 1703 90 00.

Article 3

1. The amount of the additional duties for each of the types of molasses referred to in Article 1 (1) resulting from the application of the relevant representative price shall be fixed every week at the same time as the representative prices, as laid down in paragraph 2.

2. Where the difference between the relevant trigger price referred to in Article 2 and the cif import price to be taken into consideration to establish the additional duty as laid down in Article 4 :

(a) is 10 % or less of the trigger price, the additional duty shall be zero ;

(b) is more than 10 % but less than or equal to 40 % of the trigger price, the additional duty shall be 30 % of the amount over and above 10 % ;

(c) is more than 40 % but less than or equal to 60 % of the trigger price, the additional duty shall be 50 % of the amount over and above 40 %, to which shall be added the additional duty referred to under (b) ;

(d) is more than 60 % but less than or equal to 75 % of the trigger price, the additional duty shall be 70 % of the amount over and above 60 %, to which shall be added the additional duties referred to under (b) and (c) ;

(e) is more than 75 % of the trigger price, the additional duty shall be 90 % of the amount over and above 75 %, to which shall be added the additional duties referred to under (b), (c) and (d).

Article 4

1. Where there is no request of the kind referred to in paragraph 2, or where the cif import price of the consignment referred to in paragraph 2 is lower than the relevant representative price fixed by the Commission, the cif import price of that consignment to be taken into consideration for the imposition of an additional duty shall be the representative price referred to in Article 1 (2) or (3).

2. The importer may, upon request made to the competent authority in the importing Member State at the time of acceptance of the import declaration, have the cif import price of the consignment in question, converted into standard quality molasses as defined in Article 1 of Regulation 785/68, applied for the purposes of establishing the additional duty where the abovementioned cif price is higher than the applicable representative price referred to in Article 1 (2) or (3).

The cif import price of the consignment in question shall be converted into the price of molasses of the standard quality by adjustment pursuant to Article 6 of Regulation (EEC) No 785/68.

In such cases the application of the cif import price of the consignment in question shall apply for the purposes of establishing the additional duty provided that the interested party submits to the competent authorities of the importing Member State at least the following evidence :

— the contract of purchase or equivalent proof,

— the insurance contract,

— the invoice,

— the transport contract (where applicable),

— the certificate of origin,

— and in the case of sea transport, the bill of lading,

within thirty days of the date on which the import declaration was accepted.

The Member State in question may require any other information and documents in support of the request.

As soon as the request has been lodged, the additional duty in question as fixed by the Commission shall apply.

However, the difference between the relevant additional duty as fixed by the Commission and the additional duty established on the basis of the cif import price of the consignment in question shall give use, at the request of the interested party, to the lodging by the latter of a security pursuant to Article 248 of Commission Regulation (EEC) No 2454/93 [1].

The security shall be released as soon as the competent authority of the importing Member State accepts the request on the basis of evidence submitted by the interested party.

The competent authority in the Member State concerned shall reject the request if it judges that it is not justified by the evidence submitted.

If the request is not accepted by the authority, the security shall be forfeit.

3. Each week, in respect of the preceding week, the Member States shall inform the Commission of the imports resulting from the acceptance of requests as referred to under paragraph 2, specifying the relevant product quantities and duties.

Article 5

Where the representative price referred to in Article 1 (2) plus the import duty applicable to cane molasses falling within CN code 1703 10 00, or to beet molasses falling within CN code 1703 90 00, together exceed, for the product in question, the price that served as a basis, for the marketing year in question, for determining revenue from sales of molasses pursuant to the provisions of Article 14 (2) of Regulation (EEC) No 1785/81, then the import duties shall be suspended and shall be replaced by the amount of the difference found by the Commission. This amount shall be fixed at the same time as the representative prices referred to in Article 1 (2).

However, where there is a risk that suspension of import duties may have adverse effects on the Community market in molasses, provision may be made for not applying that suspension for a specific period in accordance with the same procedure.

Article 6

1. The import duty applicable to cane molasses falling within CN code 1703 10 00, or to beet molasses falling within CN code 1703 90 00 originating in the ACP states shall be reduced to zero up to a quota limit of 600 000 tonnes per marketing year.

2. For the purposes of this Article, the concept of 'originating product' and the administrative cooperation methods shall be those laid down in Protocol No 1 annexed to the Fourth ACP-EEC Lomé Convention.

3. To obtain the preferential benefit, the importer shall submit to the competent authorities of the importing Member State a declaration of entry into free circulation including an application for the benefit for the product covered by this Regulation. If the declaration is accepted by the competent authorities in the Member State, those authorities shall notify the Commission of the applications for drawing from the quota involved.

4. The applications for drawing bearing the date of acceptance of the declaration of entry into free circulation shall be communicated to the Commission without delay.

5. The drawings shall be granted by the Commission on the basis of the date of acceptance of the declarations of entry into free circulation by the competent authorities of the importing Member State to the extent that the available balance so permits.

Any drawing not used shall be returned as soon as possible to the quota for the marketing year for which it was granted.

Where the quantities applied for are larger than the available balance of the quota, allocations shall be made on a *pro rata* basis with respect to the applications. The Commission shall inform the Member States as soon as possible of the drawings made.

6. Each Member State shall guarantee to the importers of the product in question equal and continuous access to the quota in so far as the balance of quota volume remaining permits.

Article 7

In Article 5 (1) and (2) of Regulation (EEC) No 785/68, 'Rotterdam' shall be replaced by 'Amsterdam'.

Article 8

Regulations (EEC) No 1411/70 and (EEC) No 1389/90 are hereby repealed.

Article 9

This Regulation shall enter into force on 1 July 1995.

[1] OJ No L 253, 11. 10. 1993, p. 1.

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

Done at Brussels, 23 June 1995.

For the Commission

Franz FISCHLER

Member of the Commission