COMMISSION REGULATION (EC) No 1423/95

of 23 June 1995

laying down detailed implementing rules for the import of products in the sugar sector other than molasses

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) 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 in the sugar sector need to be adjusted from 1 July 1995;

Whereas, since the Agreement converts all measures restraining imports of agricultural products into customs duties under the common customs tariff, hereinafter called '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, the establishment of additional import duties, hereinafter referred to as 'additional duties', and the determination of the cif prices of sugar; whereas, in this respect, those provisions which are the responsibility of the Member States should be applied with the greatest possible degree of centralization;

Whereas to ensure the best possible management and the necessary transparency for operators on the sugar market provision must be made for, firstly, determining and fixing each week, in accordance with Commission Regulation (EEC) No 784/68 of 26 June 1968 laying down detailed rules for calculating cif prices for white sugar and raw sugar (3), the cif prices for white sugar and raw sugar referred to in Article 15 (3) of Regulation (EEC) No 1785/81, hereinafter referred to as 'representative prices', on the world market for sugar and, secondly, establishing additional duties pursuant to the relevant provisions of the Agreement;

Whereas Commission Regulation (EEC) No 837/68 (4), as last amended by Regulation (EEC) No 1428/78 (5), should therefore be repealed with effect from 1 July 1995;

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 the products falling within CN codes 1701 11 10, 1701 11 90, 1701 12 10, 1701 12 90, 1701 91 00, 1701 99 10, 1701 99 90 and 1702 90 99.

2. For the purposes of this Regulation, representative prices for white sugar and raw sugar 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 import prices for those products established under Regulation (EEC) No 784/68, hereinafter referred to as 'representative prices'.

These prices shall be fixed for each marketing year in accordance with the procedure laid down in Article 41 of Regulation (EEC) No 1785/81 and they may be amended during that period by the Commission if the fluctuation in the elements of the calculation produce a rise or fall of ECU 0,5 per 100 kilograms or more in relation to the representative prices fixed previously.

3. The representative price for products falling within CN code 1702 90 99 shall be the representative price fixed for white sugar applied per 1 % of sucrose content per 100 kilograms net of the product in question.

Article 2

For 100 kilograms of net product, the trigger price referred to in Article 15 (2) of Council Regulation (EEC) No 1785/81 shall be equivalent to:

(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. 10.
(4) OJ No L 151, 30. 6. 1968, p. 42.
(5) OJ No L 171, 28. 6. 1978, p. 34.

(a) ECU 53,10 for white sugar falling within CN codes 1701 99 10 and 1701 99 90 of the standard quality referred to in Article 1 of Regulation (EEC) No 793/72 [1];

(b) ECU 64,7 for sugar falling within CN code 1701 91 00;

(c) ECU 54,10 for raw beet sugar falling within CN code 1701 12 90 of the standard quality referred to in Article 1 of Council Regulation (EEC) No 431/68 [2];

(d) ECU 41,30 for raw beet sugar falling within CN code 1701 12 10 of the standard quality referred to in Article 1 of Regulation (EEC) No 431/68;

(e) ECU 55,20 for raw cane sugar falling within CN code 1701 11 90 of the standard quality referred to in Article 1 of Regulation (EEC) No 431/68;

(f) ECU 41,80 for raw cane sugar falling within CN code 1701 11 10 of the standard quality referred to in Article 1 of Regulation (EEC) No 431/68;

(g) ECU 1,184 for the products falling within CN code 1702 90 99 per 1 % of sucrose content.

Article 3

1. The additional duties resulting from the application of the representative price in question shall be fixed and amended for each of the products referred to in Article 1 (1) at the same time as the representative prices as indicated 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 account when establishing the additional duty in accordance with Article 4:

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

(b) is more than 10 % but does not exceed 40 % of the trigger price, the additional duty shall be 30 % of the amount over and above 10 %;

(c) is more than 40 % but does not exceed 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 does not exceed 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. In the absence of a request as referred to in paragraph 2 or where the cif import price of the consignment in question as referred to in paragraph 2 is less than the relevant representative price fixed by the Commission, the cif import price of the consignment in question to be taken into account for the imposition of an additional duty shall be the representative price referred to in Article 1 (2) or (3).

2. When the cif price of the consignment in question is higher than the relevant representative price as referred to in Article 1 (2) or (3), the importer may, on request made to the competent authority of the importing Member State at the time of acceptance of the import declaration, have applied for the purposes of establishing the additional duty either the cif import price of the consignment in question of white sugar or raw sugar converted into the standard quality as defined, respectively, in Article 1 of Regulation (EEC) No 793/72 and Article 1 of Regulation (EEC) No 431/68, or the equivalent price for the product falling within CN code 1702 90 99, as the case may be.

The cif import price of the consignment in question shall be converted into the price of sugar of the standard quality by adjustment pursuant to the relevant provisions of Article 5 of Regulation (EEC) No 784/68.

In such cases 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,

— in the case of maritime 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 additional duty in question fixed by the Commission and the additional duty established on the basis of the cif import price of the

[1] OJ No L 94, 21. 4. 1972, p. 1.
[2] OJ No L 89, 10. 4. 1968, p. 3.

consignment in question shall give rise, 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 the evidence supplied by the interested party.

The competent authority of the Member State shall refuse the request if it judges that the evidence supplied does not justify it.

If the authority does not accept the request, 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

1. If the yield of the imported raw sugar, as determined in accordance with Article 1 of Regulation (EEC) No 431/68, differs from the yield fixed for the standard quality, the customs tariff duty and the additional duty to be levied per 100 kilograms of the said raw sugar shall be calculated by multiplying the corresponding duty fixed for raw sugar of the standard quality by a correcting coefficient. The correcting coefficient shall be obtained by dividing the percentage of the yield of the imported raw sugar by 92.

2. The sucrose content, including other sugars expressed as sucrose, as referred to in Article 2 (1) (g), shall be determined by the application of the Land and Eynon method (copper reduction method) to the solution inverted according to Clerget-Herzfeld. The total sugar content thus determined shall be expressed as sucrose by multiplying by 0,95.

Notwithstanding the preceding subparagraph, the sucrose content, including other sugars expressed as sucrose, of products containing less than 85 % sucrose and invert sugar expressed as sucrose shall be determined by ascertaining the dry matter content. The dry matter content shall be determined according to the specific gravity of the solution diluted in a proportion of 1 to 1 by weight and, for solid products, by drying. The dry matter content shall be expressed as sucrose by multiplying by the coefficient 1.

Article 6

Regulation (EEC) No 837/68 is hereby repealed.

Article 7

This Regulation shall enter into force on 1 July 1995.

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

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