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COMMISSION REGULATION (EC) No 1464/95
of 27 June 1995
on special detailed rules for the application of the system of import and export licences in the sugar sector

(OJ L 144, 28.6.1995, p. 14)

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►**M1**	Commission Regulation (EC) No 2136/95 of 7 September 1995	L 214	19	8.9.1995
►**M2**	Commission Regulation (EC) No 1148/98 of 2 June 1998	L 159	38	3.6.1998

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COMMISSION REGULATION (EC) No 1464/95

of 27 June 1995

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 Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in sugar sector [1], as last amended by Regulation (EC) No 1101/95 [2], and in particular Articles 13 (2) and 17 (2) thereof,

Whereas the Agreement on Agriculture resulting from the Uruguay Round multilateral trade negotiations (hereinafter referred to as 'the Agreement') calls for the adaptation, in particular, of regulations applicable to import and export licences in the sugar sector from 1 July 1995; whereas, in view of the number of adaptations required and for reasons of clarity and greater administrative efficiency, Commission Regulation (EEC) No 2630/81 [3], as last amended by Regulation (EEC) No 1754/93 [4], should be repealed, whilst keeping those provisions of that Regulation which are still relevant for the application of the system of import and export licences; whereas, for the same persons, derogations should be made from certain provisions of Commission Regulation (EEC) No 3719/88 [5], as last amended by Regulation (EC) No 1199/95 [6];

Whereas as a result of the Agreement, the concept in trade of advance-fixing disappears at the importation stage but becomes the rule at the exportation stage as from 1 July 1995; whereas, therefore, distinctions in respect of the corresponding securities need no longer be maintained for licences;

Whereas, as a result of the most recent enlargement of the Community, some adaptations of a formal nature should also be made;

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.

Article 2

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By way of derogation from the fourth indent of the first subparagraph and from the second subparagraph of Article 5 (1) of Regulation (EEC) No 3719/88 and from the first indent of the second subparagraph of Article 2a of Commission Regulation (EEC) No 3665/87, no export licence shall be required for the purposes of export operations relating to a quantity not exceeding two tonnes of sugar produced under quotas falling within CN code 1701 and of sugar syrups falling within CN codes ►M2 1702 60 95 ◄, 1702 90 99, 1702 90 71 and 2106 90 59.

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The Commission may, if necessary, suspend the application of the first paragraph.

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(1) OJ No L 177, 1. 7. 1981, p. 4.
(2) OJ No L 110, 17. 5. 1995, p. 1.
(3) OJ No L 258, 11. 9. 1981, p. 16.
(4) OJ No L 161, 2. 7. 1993, p. 45.
(5) OJ No L 331, 2. 12. 1988, p. 1.
(6) OJ No L 119, 30. 5. 1995, p. 4.

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Article 3

1. Where the refund or, where applicable, the 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 statement of award under the tender was issued.

2. Section 20 of the licence application and of the licence shall contain at least one of the following indications:

— Reglamento de licitación (CE) nº … (DO nº L … de …) límite de presentación de ofertas que expira el …

— Forordning om licitation (EF) nr. … (EFT nr. L … af …), fristen for indgivelse af tilbud udløber den …

— Ausschreibung — Verordnung (EG) Nr. … (ABl. Nr. L … vom …), Ablauf der Angebotsfrist am …

— Κανονισμός διαγωνισμών (ΕΚ) αριθ. … (ΕΕ αριθ. L … της …), η προθεσμία υποβολής των προσφορών λήγει την …

— tendering Regulation (EC) No … (OJ No L … of …), time limit for submission of tenders expires …

— règlement d'adjudication (CE) nº … (JO nº L … du …), délai de présentation des offres expirant le …

— regolamento di gara (CE) n. … (GU n. L … del …), termine di presentazione delle offerte scade il …

— Verordening m.b.t. inschrijving (EG) nr. … (PB nr. L … van …), indieningstermijn aanbiedingen eindigend op …

— Regulamento de adjudicação (CE) nº … (JO nº L … de …), o prazo de apresentação das ofertas expira em …

— Förordning om anbud (EG) nr … (EGT nr L …, …) tidsfrist för anbudsinlämnande utlöper den …

— Asetus tarjouskilpailusta (EY) N:o … (EYVL N:o L …, annettu …), tarjousten tekemiselle varattu määräaika päättyy ….

3. The export licence shall be issued for the quantity entered on the relevant statement of award of tender. Section 22 shall indicate the rate of the export refund or export levy, as stated in that statement, expressed in ecus. To this end, it shall contain at least one of the following indications:

— Tasa de la restitución aplicable: …

— Restitutionssats: …

— Gültiger Erstattungssatz: …

— Εφαρμοζόμενος συντελεστής επιστροφής: …

— Rate of applicable refund: …

— Taux de la restitution applicable: …

— Tasso di restituzione applicabile: …

— Toe te passen restitutievoet: …

— Taxa de restituição à exportação aplicável: …

— Exportbidragssats: …

— Tuen määrä: …

or alternatively:

— Tipo de gravamen a la exportación aplicable: …

— Eksportafgiftssats: …

— Gültiger Satz der Ausfuhrabschöpfung: …

— Εφαρμοζόμενος συντελεστής εισφοράς κατά την εξαγωγή: …

— Rate of applicable export levy: …

— Taux du prélèvement à l'exportation applicable: …

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— Tasso del prelievo all'esportazione applicabile: …

— Toe te passen heffingsvoet bij uitvoer: …

— Taxa do direito nivelador à exportação aplicável: …

— Exportavgiftssats: …

— Vientimaksun määrä: …

4. Where this Article applies, Article 44 of Regulation (EEC) No 3719/88 shall not apply:

Article 4

1. For C sugar, C isoglucose and C inulin syrup produced for export in accordance with Article 26 (1) of Regulation (EEC) No 1785/-81, Section 20 of the licence application and of the licence shall contain at least one of the following indications:

— para exportación con arreglo al apartado 1 del artículo 26 del Reglamento (CEE) nº 1785/81

— 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

— προς εξαγωγή σύμφωνα με το άρθρο 26 παράγραφος 1 του κανονισμού (ΕΟΚ) αριθ. 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) nº 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

— para exportação nos termos do nº 1 do artigo 26º do Regulamento (CEE) nº 1785/81

— för export i enlighet med artikel 26.1 i förordning (EEG) nr 1785/81

— vientiin asetuksen (ETY) N:o 1785/81 26 artiklan 1 kohdan mukaisesti.

2. Section 22 of the licence shall contain at least one of the following indications:

— para exportación sin restitución ni gravamen … (cantidad por la que este certificado ha sido emitido) kg

— udføres uden restitution eller afgift … (den mængde, for hvilken denne licens er udstedt) kg

— ohne Erstattung und ohne Abschöpfung auszuführen … (Menge, für die diese Lizenz erteilt wurde) kg

— προς εξαγωγή χωρίς επιστροφή ή εισφορά (ποσότητα για την οποία εκδόθηκε το παρόν πιστοποιητικό) kg

— for export without refund or levy … (quantity for which the licence is issued) kg

— à exporter sans restitution ni prélèvement … (quantité pour laquelle ce certificat a été délivré) kg

— da esportare senza restituzione né prelievo … (quantitativo per il quale il titolo in causa è stato rilasciato) kg

— zonder restitutie of heffing uit te voeren … (hoeveelheid waarvoor dit certificaat werd afgegeven) kg

— para exportação sem restituição nem direito nivelador … (quantidade para a qual este certificado foi emitido) kg

— för export utan bidrag eller avgift … (den mängd för vilken licensen utfärdats) kg

— viedään ilman tukea ja maksua … (tähän todistukseen liittyvä määrä) kg.

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3. 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 20 of that Regulation.

4. Article 8 (4) of Regulation (EEC) No 3719/88 shall not apply to the export licences for C sugar, C isoglucose and C inulin syrup.

Article 5

An export licence for C sugar, C isoglucose and C inulin syrup 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 for the marketing year in question.

Article 6

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 from the actual day of issue until the end of the month following that of issue.

   (b) Import licences for quantities not exceeding 10 tonnes of the products listed in Article 1 (1) (b) of Regulation (EEC) No 1785/81 and import licences for the products listed in Article 1 (1) (b), (d), (f), (g) and (h) of that Regulation shall be valid from the day of issue within the meaning of Article 21 (1) of Regulation (EEC) No 3719/88, until the end of the month following that of issue.

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 3719/88 until the end of the 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) and (d) of Regulation (EEC) No 1785/81, other than C sugar and 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) and (d) of Regulation (EEC) No 1785/81 not exceeding 10 tonnes,

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

   shall be valid from the day of issue within the meaning of Article 21 (1) of Regulation (EEC) No 3719/88 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 7

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

— in Section 20 at least one of the following indications:

   — azúcar preferencial [Reglamento (CEE) nº 2782/76]

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

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— præferencesukker (forordning (EØF) nr. 2782/76)

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

— προτιμησιακή ζάχαρη [κανονισμός (ΕΟΚ) αριθ. 2782/76]

— Preferential sugar (Regulation (EEC) No 2782/76)

— sucre préférentiel [règlement (CEE) nº 2782/76]

— zucchero preferenziale [regolamento (CEE) n. 2782/76]

— preferentiële suiker (Verordening (EEG) nr. 2782/76)

— açúcar preferencial [Regulamento (CEE) nº 2782/76]

— förmånssocker (förordning (EEG) nr 2782/76)

— etuuskohtelun alainen sokeri [asetus (ETY) N:o 2782/76];

— in Section 8, the name of the country 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 country specified in the licence.

Article 8

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

(a) where the licence is for import:

— ECU 0,30 in respect of products falling within CN codes 1701, 1702 and 2106, excluding CN codes 1702 50 00 and 1702 90 10 and inulin syrup,

— ECU 0,06 in respect of products falling within CN codes 1212 91, 1212 92 00 and 1703,

— ECU 0,60 in respect of inulin syrup falling within CN codes ►**M2** 1702 60 80 ◄ and 1702 90 80;

(b) ECU 0,30 where the licence is for the export of C sugar, C isoglucose or C inulin syrup;

(c) where the licence is for export without prejudice to other rates provided under the terms of an invitation to tender opened in the Community:

— ECU 11,00 in respect of products falling within CN code 1701.

However, the security for export licences for white sugar and raw sugar, the validity of which is limited to 30 days under the second indent of Article 6 (3), shall be ECU 4,20,

— ECU 0,90 in respect of products falling within CN code 1703,

— ECU 4,20 in respect of products falling within CN codes 1702 20, ►**M2** 1702 60 95 ◄ , 1702 90 60, 1702 90 71, 1702 90 90 and 2106 90 59, excluding inulin syrup,

— ECU 4,20 in respect of products falling within CN codes 1702 30 10, 1702 40 10, 1702 60 10, 1702 90 30 and 2106 90 30,

— ECU 8,00 in respect of inulin syrup falling within CN code ►**M2** 1702 60 80 ◄ ;

(d) ECU 0,30 for the import licences referred to in Article 7.

2. Except in cases of *force majeure*, where the obligation to export the products falling within CN code 1701 created by export licences 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 (c) is less than the export refund in force on the last day of validity of the licence following reduction of the refund as indicated on the licence, then, within the conditions as to time limits laid down in Article 33 of Regulation (EEC) No 3719/88 and by way of a supplementary security for the

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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 (c).

Article 9

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1. Without prejudice to application of Article 21 of Regulation (EEC) No 1785/81, licences for sugar falling within CN code 1701for quantities exceeding 10 tonnes, excluding:

(a) C sugar;

(b) candy sugar;

(c) flavoured sugar; sugar with added colouring matter;

(d) preferential sugar for importation into the Community in accordance with Regulation (EEC) No 2782/76;

(e) special preferential sugar for importation into the community under Article 37 of Regulation (EEC) No 1785/81

shall be issued

— in the case of import licences, on the third working day following that on which the application was lodged,

— in the case of export licences, on the fifth working day following that on which the application was lodged.

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2. When an application for a licence in respect of the products to which paragraph 1 applies relates 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 such application.

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Article 9a

1. If a stage is reached at which applications for export licences bearing on quantities and/or expenditure commitments overshoot or risk overshooting the volume and/or appropriations set in the Agreement on Agriculture, account taken of Article 9 thereof, for the marketing year in question the Commission may decide:

(a) to set a flat-rate percentage level for acceptance by Member States of the quantities applied for but for which licences have not yet been issued;

(b) that Member States will reject applications for which export licences have not yet been issued;

(c) to suspend the lodging of applications for export licences for five working days; it may prolong suspension, the procedure specified in Article 41 of Regulation (EEC) No 1785/81 applying. Export licence applications made during the suspension period shall be invalid.

2. Should the quantities applied for be reduced or refused the security against the licence shall be immediately released for the quantities not granted.

3. Applicants may withdraw their licence applications within 10 working days of publication in the *Official Journal of the European Communities* of a flat-rate acceptance percentage as indicated at (b) in paragraph 1 if it is less than 80 %. Member States shall thereupon release the security.

4. Member States shall immediately notify to the Commission:

(a) all applications for export licences for quantities exceeding 10 tonnes involving a periodically fixed refund;

(b) the quantities affected by action taken in application of paragraph 1.

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Article 10

1. By way of derogation from Article 2 of Regulation (EEC) No 3719/88, where, following authorization under Article 116 of Council Regulation (EEC) No 2913/92 [1], the prior exportation of white sugar falling within CN code 1701 99 10 is followed by the importation of raw sugar falling within CN codes 1701 11 10, 1701 11 90, 1701 12 10 and 1701 12 90, then licences shall be required to export the white sugar and to import the raw sugar.

2. Section 20 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 at least one of the following indications:

— EX/IM, artículo 116 del Reglamento (CEE) nº 2913/92

— certificado válido en … (Estado miembro emisor),

— EX/IM, artikel 116 i forordning (EØF) nr. 2913/92

— licens gyldig i … (udstedende medlemsstat),

— EX/IM, Artikel 116 der Verordnung (EWG) Nr. 2913/92

— Lizenz gültig in … (erteilender Mitgliedstaat),

— EX/IM, άρθρο 116 του κανονισμού (ΕΟΚ) αριθ. 2913/92

— πιστοποιητικό που ισχύει στο … (κράτος μέλος εκδόσεως),

— EX/IM, Article 116 of Regulation (EEC) No 2913/92

— licence valid in … (issuing Member State),

— EX/IM, article 116 du règlement (CEE) nº2913/92

— certificat valable en … (État membre de délivrance),

— EX/IM, articolo 116 del regolamento (CEE) n. 2913/92

— titolo valido in … (Stato membro di rilascio),

— EX/IM, artikel 116 van Verordening (EEG) nr. 2913/92

— certificaat geldig in … (Lid-Staat van afgifte),

— EX/IM, artigo 116º do Regulamento (CEE) nº 2913/92

— certificado válido em … (Estado-membro emissor),

— EX/IM, artikel 116 i förordning (EEG) nr 2913/92

— licens giltig i … (utfärdande medlemsstat),

— EX/IM, 116 artikla, asetus (ETY) N:o 2913/92

— todistus voimassa … (luvan antanut jäsenvaltio).

Section 20 of the export licence shall also contain the number of the corresponding import licence, and in 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 an corrective factor. The corrective factor shall be obtained by dividing 92 by the percentage yield of the raw sugar actually imported.

[1] OJ No L 302, 19. 10. 1992, p. 1.

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3. By way of derogation from Article 6, 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 15 (1) of Regulation (EEC) No 3719/88, 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 15 (1) of Regulation (EEC) No 3719/88, on or after 1 July of the marketing year in question,

4. By way of derogation from Article 8 (1), and without prejudice to the following subparagraphs, the security for the import licence referred to in paragraph 1 shall be ECU 11,50 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.

The applicant for the import licence shall be required to make the appropriate increase in the security referred to in the second subparagraph 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 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 115 (5) of Regulation (EEC) No 2913/92, 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 of the security specified in the first subparagraph.

5. Article 8 (4) of Regulation (EEC) No 3719/88 shall not apply to the export licences referred to in paragraph 1. Article 33 (3) of Regulation (EEC) No 3719/88 shall not apply to the import licences referred to in paragraph 1.

6. By way of derogation from Articles 8 (5) and 33 (1) of Regulation (EEC) No 3719/88:

(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 than the quantity of white sugar actually exported, then the security shall be forfeit in an amount corresponding to the difference between the amount of white sugar actually exported and the amount of raw sugar actually imported. This provision shall be applied having regard to the yield of the raw sugar involved;

(c) where the person concerned has not made the request referred to in the fourth subparagraph of paragraph 4, then that part of the security resulting from the application of the second subparagraph of paragraph 4 and which may be forfeit under point (b) of this paragraph shall be reduced by any amount forfeit under Article 115 (5) of Regulation (EEC) No 2913/92.

This 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, then the said security, adjusted as necessary in accordance with that paragraph, shall, except in cases of *force majeure*, be forthwith forfeit in its entirety.

If, however, a request has not been made under the fourth subparagraph of paragraph 4, then the amount forfeit shall, on expiry of the import licence, be reduced as provided for in point (c) of this paragraph.

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7. In application of Article 561 of Regulation (EEC) No 2913/92, 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 3719/88, the rights deriving from the export and import licences referred to in paragraph 1 shall not be transferable.

9. A cancellation under Article 13(2) of Regulation (EEC) No 3719/88 shall apply simultaneously to both the import licence and the export licence as referred to in paragraph 1.

Article 11

Regulation (EEC) No 2630/81 is repealed with effect from 1 October 1995.

However, its provisions in respect of import licences shall cease to be applicable as from 1 July 1995.

Article 12

This Regulation shall enter into force on 1 July 1995.

It shall apply in the case of export licences as from 1 October 1995.

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

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ANNEX

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

(in ecu/100 kg net)

Amount of export levy on raw sugar (CN codes 1701 11 10, 1701 11 90, 1701 12 10 and 1701 12 90) requiring an adjustment of the security	Amount of upward or downward adjustment of the security
1	2
0 to 4,20	—
4,21 to 8,40	4,20
8,41 to 12,60	8,40
12,61 to 16,80	12,60
and so on by increases of ECU 4,20 each time	