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COMMISSION REGULATION (EC) No 1916/95

of 2 August 1995

laying down detailed rules of application for the importation under preferential agreements on tariff quotas of raw cane sugar for refining

(OJ L 184, 3.8.1995, p. 18)

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laying down detailed rules of application for the importation under preferential agreements on tariff quotas of raw cane sugar for refining

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 Article 37 (6) and the second subparagraph of Article 39 thereof,

Whereas Article 37 of Regulation (EEC) No 1785/81 provides that, during the 1995/96 to 2000/01 marketing years, in order to ensure adequate supplies to the Community refineries, a reduced rate of duty is to be levied on imports of raw cane sugar originating in the States with which the Community has concluded preferential supply agreements; whereas, as a result, detailed rules of application should be laid down where such agreements are concluded;

Whereas the quantities of special preferential sugar to be imported are laid down in accordance with the aforementioned Article 37 on the basis of an annual Community balance; whereas, as a result, if such a balance shows the need to import raw sugar, a tariff quota at a reduced rate of duty should be opened for all or part of the marketing year in question, to enable the requirements of the Communitiy refineries to be met within the limits laid down by the aforementioned Article 37 and under the conditions laid down by the aforementioned agreements;

Whereas, as a result of the maximum refining needs fixed for each Member State and the resultant necessity to enable the best possible controls to be undertaken on the distribution of the quantities of raw sugar to be imported, it is desirable to provide that only refiners should be entitled to be issued with the import licences in question, and that they should be able to transfer them among themselves; whereas the issue of an import licence makes it obligatory to import and refine the quantity in question within the necessary time limits, failing which the penalty payment laid down in Article 37 (4) of Regulation (EEC) No 1785/81 is payable;

Whereas, in order to ensure sound management of the import system and proper implementation thereof, certain other special provisions should be laid down for import licences; whereas, furthermore, in cases where the yield of the raw sugar in question differs from that of the standard quality as defined in Council Regulation (EEC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar [3], as amended by Regulation (EC) No 3290/94 [4], provision should be made for the special reduced rate of duty to be adjusted on the basis of that difference in accordance with the rules applicable to raw sugar transactions on the world market;

Whereas unforeseeable delays may arise between the loading of a quantity of special preferential raw sugar and its delivery; whereas, as a result, a certain tolerance should be permitted to take account of such delays; whereas it is also appropriate to provide for a certain tolerance as regards the time taken for refining;

Whereas proof of the origin of imported raw sugar may be provided by presentation of the documents provided for to that end by Commission

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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 89, 10. 4. 1968, p. 3.
(4) OJ No L 349, 31. 12. 1994, p. 105.

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Regulation (EEC) No 2782/76 of 17 November 1976 laying down detailed implementing rules for the importation of preferential sugar [1], as last amended by Regulation (EEC) No 1714/88 [2];

Whereas, as a result of the special nature of the imports in question, provision should be made for certain derogations from 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 [3], which also applies to those imports;

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. During the period referred to in Article 36 of Regulation (EEC) No 1785/81, the shortfall referred to in the second subparagraph of Article 37 (3) of that Regulation shall be fixed for each marketing year or part thereof, on the basis of a Community forecast supply balance for raw sugar. For the purposes of determining that balance, the established direct consumption to be taken into account shall not exceed the limit for such consumption referred to in Article 37 (3) of Regulation (EC) No 1785/81.

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1a. Notwithstanding Article 45 of Commission Regulation (EEC) No 3719/88 [4], quantities imported benefiting from the positive tolerance provided for in Article 8(4) of that Regulation shall be deemed to have been delivered under the quota referred to in Article 1(2) provided they are covered by the certificate of origin referred to in Article 5.

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2. The shortfall may be imported by opening tariff quotas at a special reduced rate of duty agreed with the States referred to in Article 33 of Regulation (EEC) No 1785/81 and other States. It may be distributed between the Member States on the basis of their respective maximum presumed needs.

Article 2

1. The licences relating to these imports may be issued only within the limits of the quotas referred to in Article 1 (2). These licences shall be issued by the Member States referred to in Article 37 (2) of Regulation (EEC) No 1785/81 only to those refiners who import for the needs of their refineries within the meaning of Article 9 (4) of that Regulation.

However, the licences in question may be transferred by refiners to other refiners within the meaning of that Article 9 (4). The obligations to import and refine are not transferable and Article 9 of Commission Regulation (EEC) No 3719/88 [5] continues to apply.

2. The Member States concerned shall issue licences only within the limits of the import needs in special preferential sugar fixed, where necessary, for their refineries.

Article 3

The special reduced rate of duty fixed for each marketing year shall apply to raw sugar of the standard quality as defined in Article 1 of Regulation (EEC) No 431/68.

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[1] OJ No L 318, 18. 11. 1976, p. 13.
[2] OJ No L 152, 18. 6. 1988, p. 23.
[3] OJ No L 144, 28. 6. 1995, p. 14.
[4] OJ L 331, 2.12.1988, p. 1.
[5] OJ No L 331, 2. 12. 1988, p. 1.

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Whereas the polarization of the imported raw sugar deviates from 96 degrees, the special reduced rate of duty shall be increased or decreased, as the case may be, by 0,14 % for each one-tenth of a degree by which it deviates.

Article 4

1. Notwithstanding Article 6 (1) of Regulation (EC) No 1464/95 and without prejudice to Article 6 (1), import licences for raw sugar under the system provided for in this Regulation shall be valid from the data on which they are issued until the end of the marketing year in respect of which they are issued.

2. The licence applications referred to in paragraph 1 shall be submitted by the refiner to the competent body of the Member State of import concerned and shall be accompanied by a declaration by which the refiner undertakes to refine the quantity of raw sugar in question in the marketing year in respect of which it is imported.

Without prejudice to Article 6, if the sugar in question is not refined within the time limit laid down, the refiner who applied for the licence shall pay an amount equal to the full rate of duty applicable to raw sugar in the marketing year in question plus, where applicable, the highest additional rate of duty recorded during that marketing year.

The refiner who applied for the licence must show proof of relating to the Member State which issued the licence and that is acceptable to it within three months of the end of the time limit laid down for refining.

3. Section [12] of import licence applications and of licences themselves shall include the following entry:

> ‘Raw sugar originating in … (name of the country or countries referred to in Article 1 (2)) imported at a special reduced rate of duty pursuant to Article 37 (1) of Regulation (EEC) No 1785/81’.

4. The security relating to licences as referred to in paragraph 1 shall be ECU 0,30 per 100 kilograms net weight of sugar.

5. For the purposes of Article 37 (4) of Regulation (EEC) No 1785/81, amounts in excess of the maximum presumed needs shall be deemed to be the quantities of preferential raw sugar, of special preferential sugar, of raw sugar obtained in the French Overseas Departments and, where applicable, of raw sugar from beet referred to in Article 36 (5) of Regulation (EEC) No 1785/81, which have been actually refined in refineries over and above the presumed needs fixed for the Member State in question in paragraph 2 of the aforementioned Article 37.

Article 5

1. Proof of the origin of the sugar imported from the States referred to in Article 1 (2) shall be provided by presentation of a certificate of origin provided for, as the case may be, in Article 6 or Article 7 of Commission Regulation (EEC) No 2782/76 ([1]).

2. The certificate of origin referred to in paragraph 1 shall bear:

— the indication ‘special preferential raw sugar — Application of Regulation (EC) No 1916/95’,

— the date of loading of the sugar and the marketing year in respect of which delivery is being made,

— the CN code of the product in question.

3. The copies provided by applicants referred to in paragraph 1 above shall be forwarded by the Member States to the Commission.

The competent authorities of the Member States shall enter on the copies of the certificates:

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

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— the appropriate date, established on the basis of a shipping document, on which loading of the sugar in the port of export was completed,

— information relating to the import operation and the quantities actually imported.

Article 6

1. Except in the event of *force majeure*, where it has not been possible for a quantity of special preferential sugar to be delivered in sufficient time to enable it to be refined by the end of the marketing year in respect of which the licence referred to in Article 4 (1) has been issued, the Member State of importation may, at the request of the refiner, extend the validity of the licence for 30 days from the beginning of the following marketing year.

In that case, the raw sugar in question shall be refined within the time limit referred to in paragraph 2 and shall count against and be within the limits of the maximum presumed needs for the preceding marketing year.

2. Where it has not been possible to refine a quantity of special preferential sugar by the end of the marketing year in respect of which the licence referred to in Article 4 (1) has been issued, the Member State in question, may, at the request of the refiner, allow an additional refining time limit of a maximum of 90 days from the beginning of the following marketing year.

In that case, the raw sugar is question shall be refined within that time limit and shall count against and be within the limits of the maximum presumed needs for the preceding marketing year.

Article 7

Where the refiner pays the special reduced rate of duty referred to in Article 3, that duty should be deducted from the minimum price laid down in the agreement referred to in Article 37 (1) of Regulation (EEC) No 1785/81.

Article 8

The Member States concerned shall notify to the Commission:

(a) every week in respect of the preceding week, the quantity of raw sugar by weight for which import licences as referred to in Article 4 have been issued,

(b) every month in respect of the preceding month:

— the quantity of raw sugar by weight actually imported under licences as referred to in Article 4,

— the quantity of raw sugar in question by weight and in white sugar equivalent refined during the month preceding that in which the report is made,

(c) by 31 July of each marketing year, the quantity of raw sugar by weight intended for refining, in stock at the refineries on 1 July of that marketing year.

Article 9

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

It shall apply from 1 July 1995.

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