COMMISSION REGULATION (EC) No 2664/98

of 10 December 1998

amending Regulation (EC) No 1916/95 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 organisation of the markets in the sugar sector [1], as last amended by Commission Regulation (EC) No 1148/98 [2], and in particular Article 37(6) and the second subparagraph of Article 39 thereof,

Whereas Commission Regulation (EC) No 1033/98 [3] amends Article 45 of Regulation (EEC) No 3719/88 [4], as last amended by Regulation (EC) No 1044/98 [5], so that quantities imported in excess of the quantity shown on the import licence within the tolerance provided for in Article 8(4) of Regulation (EEC) No 3719/88 do not qualify under the preferential arrangements;

Whereas Article 37 of Regulation (EEC) No 1785/81 establishes the maximum presumed supply needs of the refining industry expressed as white sugar per marketing year for the 1995/96 to 2000/01 marketing years; whereas when partial deliveries of raw sugar are imported the white sugar equivalent cannot actually be determined until after the raw sugar has been analysed or refined; whereas application of Article 45 of Regulation (EEC) No 3719/88 would have a disproportionately severe financial impact on operators; whereas there therefore appears to be no justification for not allowing quantities imported within the tolerance to qualify for the preferential arrangements; whereas in any event the quantities qualifying for preferential conditions in any one delivery year may not exceed the above maximum needs allocated to each refining Member State; whereas a derogation should therefore be granted from Article 45 of Regulation (EEC) No 3719/88;

Whereas imports carried out in the same marketing year should be subject to the same rules for reasons of equality of treatment; whereas the derogation should therefore be applied with effect from the date of entry into force of Regulation (EC) No 1033/98;

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

The following paragraph 1a is hereby added to Article 1 of Commission Regulation (EC) No 1916/95 [6]:

'1a. Notwithstanding Article 45 of Commission Regulation (EEC) No 3719/88 (*), 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.

(*) OJ L 331, 2.12.1988, p. 1.'

Article 2

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

It shall apply to licences and certificates requested with effect from the entry into force of Regulation (EC) No 1033/98.

(1) OJ L 177, 1. 7. 1981, p. 4.
(2) OJ L 159, 3. 6. 1998, p. 38.
(3) OJ L 148, 19. 5. 1998, p. 4.
(4) OJ L 331, 2. 12. 1988, p. 1.
(5) OJ L 149, 20. 5. 1998, p. 11.
(6) OJ L 184, 3. 8. 1995, p. 18.

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

Done at Brussels, 10 December 1998.

For the Commission
Franz FISCHLER
Member of the Commission