COMMISSION REGULATION (EC) No 465/2000

of 29 February 2000

introducing safeguard measures for imports from the overseas countries and territories of sugar sector products with EC/OCT cumulation of origin

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community [1], as last amended by Decision 2000/169/EC [2], hereinafter known as the 'OCT Decision', and in particular Article 109 thereof,

Following consultation with the Committee set up under Article 1(2) of Annex IV to that Decision,

Whereas:

(1) The Commission has noted that imports of sugar (CN code 1701) and of mixtures of sugar and cocoa falling within CN codes 1806 10 30 and 1806 10 90 originating in the overseas countries and territories (the OCT) have been increasing greatly since 1997, particulary those imports with EC/OCT cumulation of origin, which have gone from zero in 1996 to more than 48 000 tonnes in 1999. Such products are imported into the Community free of import duties and are released for free circulation without quantity limits in accordance with Article 101(1) of the OCT Decision.

(2) By Commission Regulation (EC) No 2423/1999 of 15 November 1999 introducing safeguard measures in respect of sugar falling within CN code 1701 and mixtures of sugar and cocoa falling within CN codes 1806 10 30 and 1806 10 90 originating in the overseas countries and territories [3], applicable until 29 February 2000, the Commission made those imports subject to minimum prices for the sugar and to the Community surveillance procedure for mixtures of sugar and cocoa so as to place those imported products on an equal competitive footing with Community products.

(3) By Decision 2000/169/EC of 25 February 2000 extending Decision 91/482/EEC on the association of the overseas countries and territories with the European Economic Community the Council extended the period of application of the OCT Decision by a year, until 28 February 2001.

(4) In the past few years difficulties have arisen on the Community sugar market, a market in surplus. Sugar consumption is constant at some 12,7 million tonnes, while production is between 16,7 and 17,8 million tonnes. Any imports into the Community therefore involve a corresponding quantity of Community sugar which cannot be sold on that market having to be exported. Refunds for that sugar — within the limit of certain quotas — are charged to the Community budget (currently at around EUR 520/tonne). However, exports with refund are limited in volume by the Agreement on Agriculture concluded as part of the Uruguay Round and have been reduced from 1 555 600 tonnes for the 1995/96 marketing year to 1 273 500 tonnes for the 2000/2001 marketing year.

(5) The operation of the CMO in sugar may be greatly destabilised by these difficulties. For the 2000/2001 marketing year, which starts on 1 July 2000, it is planned on the basis of the most cautious estimates currently available, to reduce Community producers' quotas by some 500 000 t [4]. Any further import of sugar or products with a high sugar content from the OCT will mean a greater reduction in the quota for Community producers and a greater guaranteed income loss for them.

(6) Imports occur in a period of some three months following applications for the issue of licences as a result of their period of validity. As a result, all imports taken together, including those in the months preceding the start of the 2000/2001 marketing year, dictate the situation on the market during that marketing year and generate the detrimental effects mentioned in recital (5) above.

(7) As a result of the difficulties there is a risk that a sector of Community activity will deteriorate. The Commission therefore decided on 22 February 2000 to apply the safeguard clause provided for in Article 109 of the OCT Decision in respect of imports from the OCT with EC/OCT cumulation of origin of sugar sector products.

(8) Article 100 of the OCT Decision states that its object is to promote trade between the overseas countries and territories and the Community, taking account of their respective levels of development. In accordance with Article 109(2) of the OCT Decision, priority must be given to such measures as would least disturb the functioning of the association and the Community; these measures must not exceed the limits of what is stricly necessary to remedy the difficulties that have arisen.

[1] OJ L 263, 19.9.1991, p. 1.
[2] OJ L 55, 29.2.2000, p. 67.
[3] OJ L 294, 16.11.1999, p. 11.
[4] Article 26(5) of Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector (OJ L 252, 25.9.1999, p. 1).

(9) To this end, the EC/OCT cumulation of origin for products falling within CN codes 1701, 1806 10 30 and 1806 10 90 should be rectricted to a maximum of 3 340 tonnes of sugar, that figure representing the sum of the highest annual volumes of imports of the products in question recorded in the three years preceding 1999, the year in which imports recorded an exponential rise, and in respect of which there is currently an OLAF investigation into suspected irregularities. Imports of products falling within CN codes 1806 10 30 and 1806 10 90 must also be subject to safeguard measures in view of their high sugar content and the detrimental effects of the same nature as for unprocessed sugar on the CMO in sugar. That measure must ensure that quantities of imported sugar-based products originating in the OCT do not exceed a volume likely to cause disturbances to the CMO in sugar while guaranteeing them commercial ourlets.

(10) The Commission reserves the right to propose to the Council, as part of a review of the OCT Decision, that the rules allowing cumulation be deleted or that a quantity restriction at the lowest possible level be applied, taking account of the actual financial benefits to the OCT, the objectives of the common agricultural policy and budgetary restraints.

(11) The specific checks on the value of the imported goods covered by the measures laid down by this Regulation, and the checks applicable in trade with third countries established under the Community rules on release for free circulation and customs value laid down by Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code [1], as last amended by Regulation (EC) No 955/1999 of the European Parliament and of the Council [2], applicable to trade with third countries should ensure compliance with the provisions introduced in this Regulation.

(12) In order to guarantee proper management, avoid speculation and permit effective controls the rules for the lodging of licence applications should be specified. They must include proof that the applicant normally carries on business in the sugar sector, a declaration that no other applications have been lodged by that person and proof that a special security has been lodged in respect of performance of the undertakings arising from the licences.

(13) In view of the impact of the imports mentioned in recital (6) above, the safeguard measures should be made to apply with immediate effect,

HAS ADOPTED THIS REGULATION:

Article 1

For products falling within tariff headings CN 1701, 1806 10 30 and 1806 10 90, EC/OCT cumulation of origin as referred to in Article 6 of Annex II to Decision 91/482/EEC shall be permitted for a quantity of 3 340 tonnes of sugar during the period of validity of this Regulation.

For products other than unprocessed sugar, the sugar content of the imported product shall be taken into account for the purposes of complying with that limit.

Article 2

1. Import of the products referred to in Article 1 shall be subject to the issue of an import licence.

2. Articles 2 to 6 of Commission Regulation (EC) No 2553/97 of 17 December 1997 on rules for issuing import licences for certain products covered by CN codes 1701, 1702, 1703 and 1704 and qualifying as ACP/OCT originating products [3] shall apply *mutatis mutandis*.

However:

— licences shall bear the serial number 53.0001;

— Article 4(3) of Regulation (EC) No 2553/97 shall not apply;

— applications shall be lodged with the competent authorities during the first five working days of each month, with the exception of March 2000, in which applications may be lodged by 15 March 2000 at the latest.

3. Applications for import licences shall be accompanied by a copy of the export licence issued in accordance with Article 13 of Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector [4], in respect of the sugar for the products referred to in Article 1.

Article 3

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

It shall apply until 30 September 2000.

[1] OJ L 302, 19.10.1992, p. 1.
[2] OJ L 119, 7.5.1999, p. 1.
[3] OJ L 349, 19.12.1997, p. 26.
[4] OJ L 252, 25.9.1999, p. 1.

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

Done at Brussels, 29 February 2000.

For the Commission
Franz FISCHLER
Member of the Commission