COMMISSION REGULATION (EC) No 1325/2001

of 29 June 2001

providing for the continued application of safeguard measures with regard to imports of sugar sector products with EC/OCT originating status from the overseas countries and territories for the period 1 July to 1 December 2001

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 2001/161/EC [2], hereinafter referred to as 'the OCT Decision', and in particular Article 109 thereof,

After consulting the Committee set up in accordance with 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 covered by CN codes 1806 10 30 and 1806 10 90 originating in the overseas countries and territories (hereinafter referred to as 'the OCT'), and in particular imports with EC/OCT originating status, rose sharply from 1997 to 1999. These imports increased from zero tonnes in 1996 to more than 53 000 tonnes in 1999. The products concerned are imported into the Community free of import duties and are allowed in with no limit on quantity in accordance with Article 10(1) of the OCT Decision.

(2) By Decision 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 one year to 28 February 2001. By Decision 2001/161/EC, the Council again extended the period of application of Decision 91/482/EEC by a further period ending on 1 December 2001.

(3) Commission Regulation (EC) No 396/2001 of 27 February 2001 providing for the continued application of safeguard measures for imports from the overseas countries and territories of sugar sector products with EC/OCT cumulation of origin for the period 1 March to 30 June 2001 [3] limits EC/OCT originating status for the products referred to in recital 1 to a maximum of 3 878 tonnes of sugar for the period 1 March to 30 June 2001.

(4) In the past few years difficulties have arisen on the Community sugar market. That market is in surplus. Sugar consumption is constant. For the 2000/01 marketing year, it stands at around 12,85 million tonnes. In accordance with the basic Regulation, production under quota is around 14,2 million tonnes a year (in 2000/01 it stood at around 13,88 million tonnes). Any imports of sugar into the Community therefore generate a need to export a corresponding quantity of Community sugar that cannot be disposed of on that market. Refunds on that sugar — within certain quotas — are charged to the Community budget (at around EUR 430/tonne during 2000/01). However, exports on which refunds are payable are limited in quantity under the Agreement on Agriculture concluded as part of the Uruguay Round [4] and have been reduced from 1 555 600 tonnes for the 1995/96 marketing year to 1 273 500 tonnes from 2000/01, which gives total refunds of EUR 499,1 million.

(5) The operation of the common organisation of the market in sugar may be greatly destabilised by these difficulties. For the 2000/01 marketing year, the Commission reduced Community producers' quotas by 498 800 tonnes [5]. This measure has already brought about a reduction in areas under sugar-beet. A further substantial reduction cannot be ruled out for the 2001/02 marketing year. Under the reform of the common organisation of the markets (COM) for sugar [6], the Council has reduced the Community production quota by 115 000 tonnes. Any further imports of sugar or products with a high sugar content from the OCT will call for a greater reduction in the quota for Community producers and will accordingly entail a greater loss of income for them.

(6) As a result of these continuing difficulties, there is a risk that a sector of Community activity will deteriorate. On 12 June 2001 the Commission therefore decided to continue to apply the safeguard clause provided for in Article 109 of the OCT Decision in respect of imports from the OCT of certain sugar sector products with EC/OCT originating status.

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

[1] OJ L 263, 19.9.1991, p. 1.
[2] OJ L 58, 28.2.2001, p. 21.
[3] OJ L 58, 28.2.2001, p. 13.
[4] OJ L 336, 23.12.1994, p. 22.
[5] Commission Regulation (EC) No 2073/2000 (OJ L 246, 30.9.2000, p. 38).
[6] Council Regulation (EC) No 1260/2001 (OJ L 178, 30.6.2001, p. 1).

(8) To that end, for the period 1 July to 1 December 2001 EC/OCT originating status for products covered by CN codes 1701, 1806 10 30 and 1806 10 90 should be restricted to a maximum of 4 848 tonnes of sugar, which figure represents the sum of the highest quantities of imports of the products in question recorded annually in the three years preceding 1999, the year when imports soared. For the purposes of determining the quantities of sugar concerned, the Commission notes the position adopted by the President of the Court of First Instance in his rulings of 12 July and 8 August 2000 in Cases T-94/00R, T-110/00R and T-159/00R [1], without, however, recognising it as justified. Consequently, in order to avoid unnecessary procedures and for the sole purpose of adopting these safeguard measures, for sugar covered by CN code 1701 and for 1997, the Commission is basing itself on the figure of 10 372,2 tonnes, i.e. total imports from the OCT of sugar with EC/OCT and ACP/OCT originating status recorded by Eurostat.

(9) Safeguard measures should also be introduced for products covered by CN codes 1806 10 30 and 1806 10 90 in view of their high sugar content and their prejudicial effects on the COM for sugar, which are similar to those of unprocessed sugar. Those measures should ensure that imported OCT-originating sugar-based products do not exceed a quantity that could disturb the COM for sugar, while at the same time guaranteeing them a commercial outlet.

(10) As part of the review of the OCT Decision, the Commission made a proposal to the Council to abolish the rules allowing cumulation of originating status in the sugar sector.

(11) The specific checks on imported goods covered by the measures laid down in 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 in Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code [2], as last amended by European Parliament and Council Regulation (EC) No 2700/2000 [3], should ensure compliance with the provisions of this Regulation. In order to ensure proper management, avoid speculation and permit effective controls on products covered by CN codes 1701, 1806 10 30 and 1806 10 90, detailed rules should be laid down on the lodging of licence applications. For products with EC/OCT originating status, applications must in particular 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 to ensure performance of the undertakings arising from the licences. In order to create minimal disturbance for operators and at their request, the term of validity of licences should be extended beyond that provided for under the current safeguard measures.

(12) In view of the impact of the imports, the safeguard measures should apply with immediate effect,

HAS ADOPTED THIS REGULATION:

Article 1

For products covered by CN codes 1701, 1806 10 30 and 1806 10 90, cumulation of EC/OCT originating status as referred to in Article 6 of Annex II to Decision 91/482/EEC shall be permitted for a quantity of 4 848 tonnes of sugar during the period of application of this Regulation.

Compliance with that limit shall be ascertained on the basis of the sugar content of imported products other than unprocessed sugar.

Article 2

1. Imports of the products referred to in Article 1 shall be subject to the issue of an import licence in accordance with Commission Regulation (EC) No 1291/2000 [4] laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products.

2. Articles 2 to 6 of Commission Regulation (EC) No 2553/97 [5] 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 shall apply *mutatis mutandis*.

However:

— licences shall bear the serial number 53.0001,

— licence applications may be for a maximum of 4 848 tonnes,

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

— applications shall be lodged with the competent authorities in the first five working days of each month, with the exception of July 2001, when applications shall be lodged by 15 July 2001 at the latest,

— the single reducing coefficient shall be applied and the lodging of new applications suspended where the quantity covered by applications for import licences exceeds 4 848 tonnes during the period of application of this Regulation,

[1] Not yet published.
[2] OJ L 302, 19.10.1992, p. 1.
[3] OJ L 311, 12.12.2000, p. 17.
[4] OJ L 152, 24.6.2000, p. 1.
[5] OJ L 349, 19.12.1997, p. 26.

— the term of validity of import licences shall expire on the final day of the fourth month following their issue.

3. On completion of the formalities for release for free circulation in the customs territory of the Community, operators shall present the customs authorities of the Member States with a copy of the export licence issued in accordance with Article 13 of Council Regulation (EC) No 2038/1999 [1] on the common organisation of the markets in the sugar sector for the sugar used in those products.

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 from 1 July to 1 December 2001.

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

Done at Brussels, 29 June 2001.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 252, 25.9.1999, p. 1.