COMMISSION REGULATION (EC) No 2513/2001

of 20 December 2001

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1], and in particular Article 39(6) and the second paragraph of Article 41 thereof,

Whereas:

(1) Article 39 of Regulation (EC) No 1260/2001 provides that, during the 2001/02 to 2005/06 marketing years, in order to ensure adequate supplies to 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. At present such agreements have been concluded by Council Decision 2001/870/EC [2] with the ACP States party to Protocol 3 on ACP sugar attached to Annex V to the ACP-EC Partnership Agreement, and with the Republic of India. As a result, detailed rules of application should be laid down for the special rates of duty resulting from these agreements.

(2) The quantities of special preferential sugar to be imported are laid down in accordance with the above Article 39 on the basis of an annual Community balance. 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 Community refineries to be met within the limits laid down by the above Article 39 and under the conditions laid down by those agreements, in particular the special reduced rate of duty fixed at zero.

(3) For the purposes of this preferential system, in the event of part-delivery of raw sugar the quantity imported in white sugar equivalent may be determined only once that raw sugar has been analysed or refined. Application of Article 50 of Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products [3], as amended by Regulation (EC) No 2299/2001 [4], would have an excessively heavy financial impact on operators. Therefore it does not appear justified not to grant the preferential rate to quantities imported within the limits of the tolerance. However, the cumulation of the quantities imported with such part-deliveries may not result in an overrun of the maximum requirements fixed for each Member State concerned. Provision should therefore be made for a derogation from Article 50 of Regulation (EC) No 1291/2000.

(4) As a result of the maximum refining requirements fixed for each Member State and the ensuing need to enable the best possible checks to be undertaken on the distribution of the quantities of raw sugar to be imported, only refiners should be entitled to be issued with the import licences in question, which they should be able to transfer among themselves. 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 39(4) of Regulation (EC) No 1260/2001 is due.

(5) Unforeseeable delays may arise between the loading of a quantity of special preferential raw sugar and its delivery. As a result, a certain tolerance should be permitted to take account of such delays. It is also appropriate to provide for a certain tolerance as regards the time taken for refining.

(6) The origin of imported raw sugar may be proved by presentation of the documents provided for to that end by Commission Regulation (EEC) No 2782/76 of 17 November 1976 laying down detailed implementing rules for the importation of preferential sugar [5], as last amended by Regulation (EC) No 2665/98 [6].

(7) 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 [7], as last amended by Regulation (EC) No 1148/98 [8].

[1] OJ L 178, 30.6.2001, p. 1.
[2] OJ L 325, 8.12.2001, p. 21.
[3] OJ L 152, 24.6.2000, p. 1.
[4] OJ L 308, 27.11.2001, p. 19.
[5] OJ L 318, 18.11.1976, p. 13.
[6] OJ L 336, 11.12.1998, p. 20.
[7] OJ L 144, 28.6.1995, p. 14.
[8] OJ L 159, 3.6.1998, p. 38.

(8) 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 [1], as amended by Regulation (EC) No 2664/98 [2], should therefore be amended. In the interests of clarity and efficiency, it should be replaced by this Regulation.

(9) Since the agreements concluded by Decision 2001/870/EC cover the period from 1 July 2001 to 30 June 2006, this Regulation should apply retroactively from 1 July 2001.

(10) 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 detailed rules of application for the special duties provided for in Article 39 of Regulation (EC) No 1260/2001 for imports of raw cane sugar originating in the States referred to in paragraph 1 thereof under agreements with those States.

Article 2

1. For the 2001/02 to 2005/06 marketing years referred to in Article 38(1) of Regulation (EC) No 1260/2001, the shortfall referred to in the second subparagraph of Article 39(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.

The established direct consumption to be taken into account for the purposes of determining this balance may not exceed the limit for such consumption referred to in that Article 39(3).

2. The shortfall may be imported by opening tariff quotas at a zero rate of duty agreed with the States referred to in Article 39(1) of Regulation (EC) No 1260/2001. It may be distributed among the Member States on the basis of their respective maximum presumed requirements.

3. Notwithstanding Article 50 of Regulation (EC) No 1291/2000 and provided that they are covered by the certificate of origin referred to in Article 7 of this Regulation, the quantities imported pursuant to the tolerance provided for in Article 8(4) of Regulation (EC) No 1291/2000 shall be considered as delivered under the quotas referred to in paragraph 2 of this Article.

Article 3

1. Import licences may be issued only within the limits of the quotas referred to in Article 2(2). These licences shall be issued by the Member States referred to in Article 39(2) of Regulation (EC) No 1260/2001 only to those refiners who import for the requirements of their refineries within the meaning of Article 7(4) of that Regulation.

However, refiners may transfer those licences to other refiners within the meaning of that Article 7(4). The obligations to import and refine are not transferable and Article 9 of Regulation (EC) No 1291/2000 shall continue to apply.

2. The Member States concerned shall issue licences only within the limits of the import requirements for special preferential sugar fixed, where necessary, for refineries situated on their own territory.

Article 4

Notwithstanding Article 6(1) of Regulation (EC) No 1464/95 and without prejudice to Article 8(1) of this Regulation, import licences shall be valid from the date on which they are issued until the end of the marketing year in respect of which they are issued.

Article 5

1. Import licence applications shall be submitted by the refiner to the competent body of the Member State of import concerned.

They 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 8, 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 refining to the satisfaction of the Member State which issued the licence within three months of the end of the period laid down for refining.

2. Box 12 of import licence applications and of the licences themselves shall contain the following entry:

'Raw sugar originating in … (name of the country or countries referred to in Article 39(1) of Regulation (EC) No 1260/2001) imported at a special reduced rate of duty pursuant to Article 39(1) of Regulation (EC) No 1260/2001.'

[1] OJ L 184, 3.8.1995, p. 18.
[2] OJ L 336, 11.12.1998, p. 18.

3. The security relating to import licences shall be EUR 0,30 per 100 kilograms net weight of sugar.

Article 6

For the purposes of the penalty payment provided for in Article 39(4) of Regulation (EC) No 1260/2001, amounts in excess of the maximum presumed requirements shall be deemed to be the quantities of the following categories of sugar which have been actually refined in refineries over and above the presumed requirements fixed for the Member State in question in accordance with Article 39(2) of Regulation (EC) No 1260/2001:

(a) preferential raw sugar;

(b) special preferential sugar;

(c) raw sugar obtained in the French Overseas Departments;

(d) raw sugar falling under the tariff quotas opened pursuant to Council Regulations (EC) No 1095/96 [1] and (EC) No 2820/98 [2]; and

(e) where applicable, raw sugar from beet referred to in Article 38(5) of Regulation (EC) No 1260/2001.

Article 7

1. Proof of the origin of the sugar imported from the States referred to in Article 39(1) of Regulation (EC) No 1260/2001 shall be provided by presentation of a certificate of origin provided for, as the case may be, in Article 6 or Article 7 of Regulation (EEC) No 2782/76.

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

(a) the indication 'special preferential raw sugar - application of Regulation (EC) No 2513/2001';

(b) the date of loading of the sugar and the marketing year in respect of which delivery is being made;

(c) the CN code of the product in question.

3. The copies, provided by those concerned, of the certificate of origin 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 the following indications on these copies:

(a) the date, established on the basis of an appropriate shipping document, on which loading of the sugar in the port of export was completed;

(b) information relating to the import operation and the quantities actually imported 'tel quel'.

[1] OJ L 146, 20.6.1996, p. 1.
[2] OJ L 357, 30.12.1998, p. 1.

Article 8

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 import licence has been issued, the Member State of import 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 requirements 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 import licence 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 in question shall be refined within that time limit and shall count against and be within the limits of the maximum presumed requirements for the preceding marketing year.

Article 9

1. Every month in respect of the preceding month the Member States concerned shall communicate to the Commission:

(a) the quantities of raw 'tel quel' sugar by weight for which import licences as referred to in Article 3 have been issued;

(b) the quantities of raw 'tel quel' sugar by weight actually imported under licences as referred to in Article 3;

(c) the quantities of raw 'tel quel' sugar in question by weight and in white sugar equivalent refined during the month preceding that in which the report is made,

2. By 31 July of each marketing year the Member States concerned shall communicate to the Commission the quantity of raw sugar by weight intended for refining, in stock at the refineries on 1 July of that marketing year.

Article 10

1. Regulation (EC) No 1916/95 is hereby repealed.

2. References to that Regulation shall be taken as references to this one.

Article 11

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 2001.

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

Done at Brussels, 20 December 2001.

For the Commission
Franz FISCHLER
Member of the Commission