COMMISSION REGULATION (EC) No 1381/2002

of 29 July 2002

laying down detailed rules for opening and administration of the tariff quotas for raw cane sugar for refining, originating in the least developed countries, for the marketing years 2002/03 to 2005/06

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2501/2001 of 10 December 2001 applying a scheme of generalised tariff preferences for the period 1 January 2002 to 31 December 2004 [1], and in particular Article 9(6) thereof,

Whereas:

(1) Article 9(5) of Regulation (EC) No 2501/2001 lays down that, until Common Customs Tariff duties are entirely suspended, a global tariff quota at zero duty is to be opened for every marketing year for products of CN code 1701 11 10, originating in a country that according to Annex I to that Regulation, benefits from the special arrangements for least developed countries. The tariff quota for the marketing year 2002/03 is to be equal to 85 313 tonnes, white sugar equivalent, for products of CN code 1701 11 10. For each of the following marketing years, the quotas shall be increased by 15 % over the quotas of the previous marketing year.

(2) Those provisions have to be implemented within the framework of the common trading system established by Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [2], as last amended by Commission Regulation (EC) No 680/2002 [3].

(3) The quantities of raw sugar benefiting from the global tariff quotas should be imported under conditions which meet the refining needs of the Member States referred to in Article 39(2) of Regulation (EC) No 1260/2001.

(4) The experience gained under Commission Regulation (EC) No 1978/2001 of 10 October 2001 on opening a tariff quota for raw cane sugar for refining, originating in the least developed countries, for the marketing year 2001/02 [4], justifies establishing detailed rules governing the opening and management of the quotas for a longer period. That period should cover four marketing years.

(5) To ensure an adequate price for the raw cane sugar exported by the least developed countries to the Community, a minimum price to be paid by the refiners should be fixed. The minimum price should take into account the factors applying for the marketing years 2002/03 to 2005/06.

(6) The general rules as regards import licences 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 [5], as last amended by Regulation (EC) No 2299/2001 [6], as well as the special detailed rules for the sugar sector established by Commission Regulation (EC) No 1464/95 [7], as last amended by Regulation (EC) No 996/2002 [8], should apply. To facilitate the administration of the quotas under the present Regulation and to ensure the respect of the annual quota quantity, detailed rules concerning the issue of the licences for the import of raw sugar expressed as white sugar equivalent should be decided.

(7) The provisions concerning the proof of origin set out in Articles 67 to 97 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [9], as last amended by Regulation (EC) No 444/2002 [10], establish the definition of the concept of originating products to be used for the purposes of generalised tariff preferences.

(8) Since the Council in fixing the global tariff quotas has not provided for a margin to exceed these quantities, the full Common Customs Tariff duty should apply to all quantities converted into white sugar equivalent, imported in excess of those figuring on the import licence. In order to avoid excess of imported raw sugar in the Community from the least developed countries, provisions are necessary to ensure that the imported quantities of sugar are effectively refined by the end of the marketing year concerned or before a certain date set by the Member State.

[1] OJ L 346, 31.12.2001, p. 1.
[2] OJ L 178, 30.6.2001, p. 1.
[3] OJ L 104, 20.4.2002, p. 26.
[4] OJ L 270, 11.10.2001, p. 9.
[5] OJ L 152, 24.6.2000, p. 1.
[6] OJ L 308, 27.11.2001, p. 19.
[7] OJ L 144, 28.6.1995, p. 14.
[8] OJ L 152, 12.6.2002, p. 11.
[9] OJ L 253, 11.10.1993, p. 1.
[10] OJ L 68, 12.3.2002, p. 11.

(9) In order to respect the annual quota quantity as set out by Regulation (EC) No 2501/2001, the Member States should communicate to the Commission quantities of raw sugar expressed in white sugar equivalent.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Generalised Preferences Committee,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down the rules for opening and administration of the tariff quotas for raw cane sugar for refining referred to in Article 9(5) of Regulation (EC) No 2501/2001, for the marketing years 2002/03, 2003/04, 2004/05 and 2005/06.

Article 2

For the purposes of this Regulation:

— 'marketing year' shall mean the marketing year referred to in Article 1(2)(m) of Regulation (EC) No 1260/2001,

— 'refiner' shall mean a person who imports for the needs of his refinery within the meaning of Article 7(4), fourth indent, of Regulation (EC) No 1260/2001.

Article 3

1. The following global tariff quotas at zero duty of products of CN code 1701 11 10, expressed as white sugar equivalent, are opened for the following marketing years for imports originating in a country that according to Annex I to Regulation (EC) No 2501/2001 benefits from the special arrangements for least developed countries:

— 85 313 tonnes for the marketing year 2002/03,

— 98 110 tonnes for the marketing year 2003/04,

— 112 827 tonnes for the marketing year 2004/05, and

— 129 751 tonnes for the marketing year 2005/06.

Each of these quotas shall bear the order No of respectively 09.4302; 09.4303; 09.4304 and 09.4305.

These quotas shall be opened on the first day of the marketing year concerned and remain open until the last day of that marketing year.

2. All Common Customs Tariff duties, as well as any additional duties referred to in Article 24 of Regulation (EC) No 1260/2001, on imports under these quotas are suspended.

Article 4

1. A minimum purchase price of standard quality raw sugar (cif, free out of European ports of the Community) to be paid by the refiners shall apply to imports under the quotas referred to in Article 3(1).

2. The minimum purchase price for each marketing year corresponds to the intervention price for raw sugar referred to in Article 2(2) of Regulation (EC) No 1260/2001, reduced by the amount, multiplied by the yield of 0,92 for raw sugar, of the adjustment aid to the refining industry applicable for the marketing year in question, in conformity with Article 38(1) and (4) of the said Regulation

Article 5

1. Imports under the quotas referred to in Article 3(1) shall require an import licence issued in accordance with Regulation (EC) No 1291/2000 and Regulation (EC) No 1464/95, subject to the provisions of this Regulation.

2. Applications for licences shall be submitted by the refiners to the competent body of the Member States referred to in Article 39(2) of Regulation (EC) No 1260/2001. This application shall be accompanied by a declaration by which the refiner undertakes to refine the quantity of raw sugar in question before the end of the marketing year during which it is imported.

3. Import licences may be issued only within the limits of the quotas referred to in Article 3(1). These licences shall be issued by the Member States of import concerned.

4. Refiners may transfer licences to other refiners. In this case, the refiner informs without delay the competent authority of the Member State having issued the original licences. However, the obligations to import and refine are not transferable and Article 9 of Regulation No 1291/2000 shall continue to apply.

5. 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. However, where in accordance with paragraph 8 a licence is issued before the quota has been opened, the licence shall be valid only from the date of the quota opening.

6. The security relating to the licences shall be EUR 0,30 per 100 kg net weight of sugar.

7. Import licence applications and licences themselves shall include the following entries:

— in Section 8: the country or countries of origin (country or countries included in the special arrangements for least developed countries according to column H of Annex I to Regulation No 2501/2001),

— in Sections 17 and 18: the quantity of raw sugar, expressed as white sugar equivalent,

— in Section 20: 'Raw sugar for refining imported pursuant to Article 9(5) of Regulation (EC) No 2501/2001. Quota order No … (No referred to in Article 3(1))'.

8. The period during which applications for import licences may be submitted shall start three weeks before the first day of the marketing year concerned.

9. Import licence applications shall be submitted from Monday to Friday of each week to the competent authorities of the Member State of import concerned. Member States shall notify the Commission on the first working day of the following week the quantities of raw sugar, expressed as white sugar equivalent, for which applications of import licences have been submitted during the preceding week, in specifying the quantities by countries of origin.

10. The licences shall be issued on the fourth working day following that of the notification referred to in paragraph 9, provided that the Commission has not objected.

11. The Commission shall draw up a weekly total of the quantities for which import licences have been submitted. Where licence applications exceed the quota quantity for the current marketing year, the Commission shall limit the issue of licences pro rata to the quantity remaining and, if appropriate, shall inform the Member States that the maximum quantity of the quota concerned has been reached.

Article 6

1. Proof of the originating status of the imports under the quota referred to in Article 3(1) shall be furnished by a certificate of origin Form A issued in accordance with Articles 67 to 97 of Regulation (EEC) No 2454/93.

2. The certificate of origin form A shall bear, in box 4:

— the phrase 'Quota order No … (No referred to in Article 3(1)) — Regulation (EC) No …/…',

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

— CN code 1701 11 10.

3. The customs authorities of the importing Member State shall indicate on the certificate of origin form A:

— the 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 of raw sugar actually imported.

4. Where refiners transfer import licences to other refiners pursuant to Article 5(4), the Member State shall collect the completed certificates of origin form A and send a copy of the certificates to the Member State which initially issued the import licence.

Article 7

1. Each Member State shall keep the record of the quantities actually imported with the certificates of origin referred to in Article 6 of raw sugar and shall convert these quantities in white sugar equivalent on the basis of the polarisation stated, applying the provisions under point II(3) of Annex I to Regulation (EC) No 1260/2001.

2. Pursuant to Article 50(1) of Regulation (EC) No 1291/2000, the full Common Customs Tariff duty applicable on the date of release for free circulation shall apply to all quantities, converted in white sugar equivalent, imported in excess of those shown on the import licence referred to in Article 5.

3. The refiner who applied for the licence must, within three months following that of the end of the time limit for refining according to Article 5(2), show to the Member State which issued the licence proof of refining acceptable to it.

4. Except in the event of force majeure, if the sugar is not refined within the time limit, the refiner who applied for the licence shall pay an amount equal to the full duty applicable to raw sugar in that marketing year plus, where applicable, the highest additional rate of duty recorded during that marketing year.

5. Except in the event of force majeure, where it has not been possible for a quantity of sugar to be delivered in sufficient time to enable it to be refined by the end of the marketing year concerned, 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 count against and be within the limits of the quota for the preceding marketing year.

6. Where it has not been possible to refine a quantity of sugar by the end of a marketing year, the Member State in question may, at the request of the refiner, extend the time limit by 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 extended time limit and shall count against and be within the limits of the quota for the preceding marketing year.

Article 8

Member States referred to in Article 39(2) of Regulation (EC) No 1260/2001 shall communicate to the Commission:

(a) at the beginning of the marketing year, the provisional quantities of raw sugar to be imported from the different countries concerned;

(b) every month in respect of the preceding month, the quantities of raw sugar by weight expressed in white sugar equivalent for which import licences referred to in Article 5 have been issued;

(c) every month:

— the quantities of raw 'tel quel' sugar by weight and in white sugar equivalent actually imported three months before under licences referred to in Article 5, broken down by country of origin,

— the quantities of raw 'tel quel' sugar by weight and in white sugar equivalent refined three months before;

(d) before 1 November:

— the quantity of raw 'tel quel' sugar by weight and in white sugar equivalent actually imported with licences referred to in Article 5 during the preceding marketing year, broken down by country of origin,

— the quantity of raw 'tel quel' sugar by weight and in white sugar equivalent refined that is counted against the quota of the preceding marketing year.

Article 9

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

It shall apply until 30 June 2006.

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

Done at Brussels, 29 July 2002.

For the Commission
Pascal LAMY
Member of the Commission