COMMISSION REGULATION (EC) No 2255/2004

of 27 December 2004

on proof of completion of customs formalities for the import of sugar into third countries as provided for in Article 16 of Regulation (EC) No 800/1999

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 the second sentence of the second indent of the first subparagraph of Article 27(11) thereof,

Whereas:

(1) Article 27(5) of Regulation (EC) No 1260/2001 provides that export refunds in the sugar sector may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

(2) Article 1 of Commission Regulation (EC) No 1327/2004 of 19 July 2004 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar for the 2004/05 marketing year [2] provides for such differentiation by excluding certain destinations. Moreover, the bi-monthly or monthly setting, as the case may be, of export refunds for white sugar, raw sugar without further processing, syrups and other sugar sector products as provided for in Articles 28 and 30 of Regulation (EC) No 1260/2001 excludes certain destinations.

(3) The first subparagraph of Article 27(11) of Regulation (EC) No 1260/2001 provides that the refund is to be paid upon proof that the products have been exported from the Community and, in the case of a differentiated refund, the products have reached the destination indicated on the licence or another destination for which a refund has been fixed.

(4) Article 16 of Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products [3] lists the various documents that may constitute proof of the completion of customs formalities in a third country where the refund rate is differentiated according to destination. Under that Article the Commission may decide, in certain specific cases to be determined, that the proof referred to in that Article may be deemed to be furnished by a specific document or in any other way.

(5) In the sugar sector, export operations are normally governed by contracts defined as fob on the London futures market. As a result, purchasers accept at that fob stage all the contractual obligations, including proof of completion of customs formalities, without being the direct beneficiaries of the refund to which that proof confers the right. Obtaining that proof for all quantities exported may entail considerable administrative difficulties in certain countries, which may substantially delay or prevent payment of the refund for all the quantities actually exported.

(6) In order to limit the impact on the equilibrium of the sugar market, Commission Regulation (EC) No 40/2004 of 9 January 2004 on proof of completion of customs formalities for the import of sugar into third countries, as provided for in Article 16 of Regulation (EC) No 800/1999 [4], defined the alternative proofs offering guarantees enabling the product to be deemed to have been imported into a third country.

(7) Since the administrative difficulties and their impact on the market still persist at the approach of the deadline of 31 December 2004, when Regulation (EC) No 40/2004 ceases to apply, the alternative proofs of destination should be defined again for exports effected as from 1 January 2005.

(8) This being a derogation, its period of application should be restricted.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

[1] OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

[2] OJ L 246, 20.7.2004, p. 23. Regulation as amended by Regulation (EC) No 1685/2004 (OJ L 303, 30.9.2004, p. 21).

[3] OJ L 102, 17.4.1999, p. 11. Regulation as last amended by Regulation (EC) No 671/2004 (OJ L 105, 14.4.2004, p. 5).

[4] OJ L 6, 10.1.2004, p. 17. Regulation as amended by Regulation (EC) No 778/2004 (OJ L 123, 27.4.2004, p. 62).

HAS ADOPTED THIS REGULATION:

Article 1

1. In the case of exports effected in accordance with Article 27 of Regulation (EC) No 1260/2001 for which the exporter is unable to provide the proof referred to in Article 16(1) and (2) of Regulation (EC) No 800/1999, products shall, by derogation from that Article, be deemed to have been imported into a third country on presentation of the following three documents:

(a) a copy of the transport document;

(b) a declaration that the product has been unloaded, drawn up by an official authority of the third country in question, by the official authorities of a Member State established in the country of destination, or by an international supervisory agency approved under Articles 16a to 16f of Regulation (EC) No 800/1999, certifying that the product has left the unloading site or at least that, to the knowledge of the authority or agency issuing the declaration, the product has not subsequently been reloaded with a view to being re-exported;

(c) a bank document issued by approved intermediaries established in the Community certifying that payment corresponding to the export in question has been credited to the account of the exporter opened with them, or proof of payment.

2. For the purposes of applying Article 20 of Regulation (EC) No 800/1999, Member States shall take account of paragraph 1 of this Article.

Article 2

This Regulation shall enter into force on 1 January 2005.

It shall apply up to 31 December 2005.

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

Done at Brussels, 27 December 2004.

For the Commission
Mariann FISCHER BOEL
Member of the Commission