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COMMISSION REGULATION (EC) No 60/2004

of 14 January 2004

laying down transitional measures in the sugar sector by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia

(OJ L 9, 15.1.2004, p. 8)

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laying down transitional measures in the sugar sector by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular Article 2(3) thereof,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular the first subparagraph of Article 41 thereof,

Whereas:

(1) The rules concerning production and trade arrangements for the sugar market inserted in Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1] by the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (hereinafter referred to as the Act of Accession), will be applicable as from 1 May 2004, which is two months before the expiry of the marketing year 2003/2004. Transitional measures are therefore required to change over from the production and trade arrangements in force in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (hereinafter referred to as the new Member States) to those provided for in Regulation (EC) No 1260/2001.

(2) For the marketing year 2003/2004, the entire sugar production of the new Member States is produced under national arrangements, and the main quantities of their production will be disposed of before 1 May 2004. Consequently, the provisions on prices, inter-professional agreements and self-financing provided for in Articles 2 to 6 and 10 to 21 of Regulation (EC) No 1260/2001 should not apply before 1 July 2004. The non application of the self-financing arrangements and the provision on prices to sugar produced before 1 July 2004 means that the export refund arrangement provided for in Articles 27 to 31 of Regulation (EC) No 1260/2001 and the intervention and production refund arrangements provided for in Articles 7, 8 and 9 of that Regulation should not apply before 1 July 2004.

(3) In the case of isoglucose, production is steady and in keeping with demand and it is therefore necessary to determine an appropriate share of the basic isoglucose quantities defined for the new Member States producing isoglucose in order to facilitate the transition and to ensure the balance between production and consumption in the enlarged Community. However, for the purposes of ensuring the same treatment for isoglucose and sugar, Articles 2 to 21 and 27 to 31 of Regulation (EC) No 1260/2001 should only become applicable to isoglucose in the new Member States from 1 July 2004.

(4) The Act of Accession defines a maximum supply need for the sugar-producing undertaking in Slovenia of 19 585 tonnes. In order to guarantee the supply of that undertaking with raw sugar for refining between 1 May and 30 June 2004, an appropriate share of the maximum supply need should be determined for that period.

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[1] OJ L 178, 30.6.2001, p. 1. Regulation as last amended by the Act of Accession.

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(5) There is a considerable risk of disruption on the markets in the sugar sector by products being introduced into the new Member States before their accession for speculation purposes. Provisions facilitating the transition should therefore be made to avoid such speculative movements in view of the accession of the new Member States. Similar provisions have already been taken in respect of trade in agricultural products on account of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia by Regulation (EC) No 1972/2003 ([1]). Separate rules are necessary in order to take into account the particularities of the sugar sector.

(6) Chapter 5 of Annex IV to the Act of Accession foresees that goods which are under different types of suspensive regime on the date of accession are exempted from customs duties when released for free circulation provided that certain circumstances are complied with. However, in the sugar sector there is a high risk that this possibility will be used for speculative purposes. In addition, it would allow operators to circumvent the obligation laid down in this regulation to eliminate from the market at their expense the quantities of surplus sugar or isoglucose identified by the authorities of the new member States or to pay charges of the proof of elimination of these quantities cannot be provided. Products which present such a risk should therefore be subject to import duties on the date of release for free circulation.

(7) Furthermore, and in accordance with the Act of Accession, quantities of stocks of sugar or isoglucose exceeding the normal carry-over stock should be eliminated from the market at the expense of the new Member States. Determination of the surplus stocks will be carried out by the Commission on the basis of trade developments, production and consumption trends in the new Member States during the period of 1 May 2000 to 30 April 2004. For this procedure, besides sugar and isoglucose, other products with a significant sugar equivalent content should be also considered as they could also be possible targets of speculation. In case the determined surplus quantity of sugar and isoglucose is not eliminated from the Community market by 30 April 2005 at the latest, the new Member State concerned will be made financially responsible for the relevant quantity. The amount to be charged for a new Member State and payable for the Community budget in case of non elimination of surplus stocks should be the highest export refund applicable during the period of 1 May 2004 and 30 April 2005.

(8) It is the interest of both the Community and the new Member States to preferably prevent the accumulation of surplus stocks and in any case be able to identify those operators or individuals involved in major speculative trade movements. For that purpose new Member States should dispose of a system on 1 May 2004 that enables them to identify those responsible for such developments.

(9) For the determination of surplus stocks and the elimination of identified surplus stocks new Member States should provide for the Commission most recent statistics of trade, production and consumption of the products considered, as well as proof of elimination from market of the identified surplus stocks by the set deadline.

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

([1]) OJ L 293, 11.11.2003, p. 3.

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HAS ADOPTED THIS REGULATION:

SECTION 1

TRANSITIONAL MEASURES IN VIEW OF ACCESSION

Article 1

Applicability of certain provisions of Regulation (EC) No 1260/2001

Articles 2 to 21 and 27 to 31 of Regulation (EC) No 1260/2001 shall not apply from 1 May 2004 to 30 June 2004 to the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (hereinafter referred to as the new Member States).

Article 2

Isoglucose quotas

For the period from 1 May 2004 to 30 June 2004, the basic quantities of A and B isoglucose for the new Member States producing isoglucose shall be as follows:

	Basic quantity A in tonnes of dry matter	Basic quantity B in tonnes of dry matter
Hungary	21 271	1 667
Poland	4 152	312
Slovakia	6 254	837

Article 3

Preferential import of cane sugar

In order to cover its demand for the refining of raw cane sugar for the period from 1 May 2004 to 30 June 2004, Slovenia is authorised to issue licences during that period for 'special preferential sugar' within the limit of 3 264 tonnes, expressed in white sugar equivalent and under the conditions provided for in Commission Regulation (EC) No 1159/2003 ([1]).

SECTION 2

TRANSITIONAL MEASURES TO AVOID SPECULATION

Article 4

Definitions

For the purposes of this Section, the following definitions shall apply:

1. 'Sugar' means:

   (a) beet sugar and cane sugar, in solid form, falling within CN code 1701;

   (b) sugar syrup falling within CN codes 1702 60 95, 1702 90 99 and 2106 90 59;

   (c) inulin syrup falling within CN codes 1702 60 80 and 1702 90 80;

2. 'Isoglucose' means the product falling within CN codes 1702 30 10, 1702 40 10, 1702 60 10, 1702 90 30 and 2106 90 30;

3. 'Processed products' means products having an added sugar/sugar equivalent content exceeding 10 %, which have resulted from the processing of agricultural products;

([1]) OJ L 162, 1.7.2003, p. 25.

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4. ‘Fructose’ means chemically pure fructose under CN code 1702 50 00.

Article 5

Suspensive regime

1. By way of derogation from Chapter 5 of Annex IV to the Act of Accession and from Articles 20 and 214 of Council Regulation (EEC) No 2913/92 ([1]), products falling within CN codes 1701, 1702, 1704, 1904, 1905, 2006, 2007, 2009, 2101 12 92, 2101 20 92, 2105 and 2202 except those listed in Article 4(5) of Commission Regulation (EC) No 1972/2003, shall be subjected to the erga omnes import duty rate, including any additional import duty applicable on the date of release for free circulation, provided that:

(a) before 1 May 2004, they have been in free circulation in the Community as constituted on 30 April 2004 or in a new Member State and;

(b) on 1 May 2004, they are:

(i) in temporary storage, or

(ii) under one of the customs treatments or procedures referred to in Article 4(15)(b) and Article 4(16)(b) to (g) of Regulation (EEC) No 2913/92 in the Community, or

(iii) in transport after having been subject to export formalities within the enlarged Community.

This first subparagraph shall not apply to products, with the exception of refined beet C sugar, C isoglucose syrup and C inulin syrup falling within CN codes 1701 99 10, 1701 99 90, 1702 30 10, 1702 40 10, 1702 60 10, 1702 90 30, 1702 60 80 and 1702 90 80 respectively, exported from the Community of Fifteen if the importer gives evidence that no export refund has been sought for the products of the country of export. Upon the importer's request, the exporter shall arrange to obtain an endorsement by the competent authority on the export declaration that an export refund has not been sought for the products of the country of export.

2. By way of derogation from Chapter 5 of Annex IV to the Act of Accession and from Articles 20 and 214 of Regulation (EEC) No 2913/92, products falling within CN codes 1701, 1702, 1704, 1904, 1905, 2006, 2007, 2009, 2101 12 92, 2101 20 92, 2105 and 2202 except those listed in Article 4(5) of Regulation (EC) No 1972/2003, coming from third countries shall be subjected to the import duty, including any additional import duty, applicable on the date of release for free circulation, provided that:

(a) they are under inward processing referred to in Article 4(16)(d) or temporary admission referred to in Article 4(16)(f) of Regulation (EEC) No 2913/92 in a new Member State on 1 May 2004;

(b) they are released for free circulation on or after 1 May 2004.

Article 6

Abnormal stocks

1. ►**M1** The Commission shall determine by 31 May 2005 at the latest, for each new Member State, in accordance with the procedure referred to in Article 42(2) of Regulation (EC) No 1260/2001, the quantity of sugar as such or in processed products, isoglucose and fructose exceeding the quantity considered as being normal carry-over stock at 1 May 2004 and which has to be eliminated from the market at the expense of the new Member States. ◄

([1]) OJ L 302, 19.10.1992, p. 1.

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To determine this surplus quantity, account is in particular taken of the development during the year preceding accession in relation to the previous years of:

(a) imported and exported quantities of sugar as such or in processed products, isoglucose and fructose;

(b) production, consumption and stocks of sugar and isoglucose;

(c) the circumstances in which stocks were built up.

2. ►M1 The new Member State concerned shall ensure the elimination from the market of a quantity of sugar or isoglucose, without Community intervention, equal to the surplus quantity referred to in paragraph 1, by 30 November 2005 at the latest: ◄

(a) by export without refund from the Community;

(b) by use in the sector of combustibles;

(c) by denaturation without aid for animal feed in accordance with Titles III and IV of Commission Regulation (EEC) No 100/72 ([1]).

3. For the application of paragraph 2, the competent authorities of the new Member States shall dispose on 1 May 2004 of a system for the identification of traded or produced surplus quantities of sugar as such or in processed products, isoglucose or fructose, at the level of the main operators concerned. That system may in particular rely on import tracking, fiscal monitoring, surveys based on operators' accounts and physical stocks, and include measures such as risk guarantees. The system of identification shall be based on risk assessment that takes due account in particular of the following criteria:

— type of activity of the operators concerned,

— capacity of storage facilities,

— level of activities.

▼M1

The new Member State shall use that system to compel the operators concerned to eliminate from the market at their own expense an equivalent quantity of sugar or isoglucose of their determined individual surplus quantity. The operators concerned shall provide the proof, to the satisfaction of the new Member State, that products were eliminated from the market by 30 November 2005 at the latest.

In case such proof is not provided, the new Member State shall charge an amount equal to the quantity in question multiplied by the highest import charges applicable to the product concerned during the period from 1 May 2004 to 30 November 2005, increased by EUR 1,21/100 kg in white sugar or dry matter equivalent.

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The amount referred to in the third subparagraph shall be assigned to the national budget of the new Member State.

4. ►M1 When the sugar or isoglucose is eliminated in accordance with paragraph 2(a), the operators concerned shall provide the proof of export by 28 February 2006 at the latest by the presentation of: ◄

(a) export licences issued in accordance with Commission Regulations (EC) No 1291/2000 ([2]) and (EC) No 1464/95 ([3]).

(b) relevant documents referred to in Articles 32 and 33 of Regulation (EC) No 1291/2000 necessary for the release of the guarantee.

([1]) OJ L 12, 15.1.1972, p. 15.
([2]) OJ L 152, 24.6.2000, p. 1.
([3]) OJ L 144, 28.6.1995, p. 14.

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The application for the export licence referred to in (a) shall comprise in box 20 the following indication: 'for export in accordance with article 6(2)(a) of Regulation (EC) No 60/2004'.

The export licence referred to in (a) shall comprise in box 22 the following indication: 'to be exported without refund or levy ..... (quantity for which this certificate was issued) kg; the certificate is valid only in ..... (new Member State issuing it)'.

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The export licence referred to in point (a) of the first subparagraph shall be valid from the date of its issue until 30 November 2005.

Article 7

Proof of elimination by new Member States

1. By 31 March 2006 at the latest, the new Member States shall provide proof to the Commission that the surplus quantity referred to in Article 6(1) was eliminated from the market in accordance with Article 6(2) and specify for each method the quantity eliminated.

2. In case the proof of elimination from the market is not provided in accordance with paragraph 1, for a part or the totality of the surplus quantity, the new Member State is charged an amount equal to the quantity not eliminated multiplied by the highest export refunds applicable to white sugar falling within CN code 1701 99 10 during the period from 1 May 2004 to 30 November 2005. A share equal to 25 % of the total amount will be assigned to the Community budget by 31 December at the latest of each of the following years, 2006, 2007, 2008 and 2009. The total amount will be taken into account for the calculation of the production levies for the marketing year 2004/2005.

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Article 8

Control

1. The new Member States shall take all the necessary measures for the application of this Section and establish in particular the control procedures which prove necessary for the elimination of the surplus quantity referred to in Article 6(1).

2. The new Member States communicate to the Commission by 31 July 2004 at the latest:

(a) information on the system established for the identification of surplus quantities referred to in the first subparagraph of Article 6 (3);

(b) quantities of sugar, isoglucose, fructose and processed products imported and exported monthly for the period from 1 May 2000 to 30 April 2004, communicated separately for imports and exports to the Community as constituted on 30 April 2004, the new Member States and third countries;

(c) for the period from 1 May 2000 to 30 April 2004, the quantities of sugar and isoglucose produced annually, broken down, as the case may be, by production under quota and out of quota, and consumed annually;

(d) for the period from 1 May 2000 to 1 May 2004, the stocks of sugar and isoglucose held on 1 May of each year.

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SECTION 3

FINAL PROVISION

Article 9

Entry into force

This Regulation shall enter into force on 1 May 2004, subject to the entry into force of the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

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