COMMISSION REGULATION (EC) No 1055/2009

of 5 November 2009

amending Regulation (EC) No 951/2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) [1] and in particular Articles 85 and 161(3), in conjunction with Article 4 thereof,

Whereas:

(1) Commission Regulation (EC) No 951/2006 [2], lays down detailed rules for out-of-quota exports in the sugar sector.

(2) To ensure that Community operators can supply their export markets with out-of-quota sugar or isoglucose throughout the marketing year, it is necessary to clarify that sugar or isoglucose produced under quota may temporarily be sold, when market conditions so require, as out-of-quota production. This mechanism of equivalence should also apply when producers of quota and out-of-quota sugar or isoglucose are located in different Member States.

(3) To ensure legal certainty and equal treatment of operators in each Member State it is appropriate to clarify that the out-of-quota sugar or isoglucose exported within the quantitative limit fixed for a given marketing year does not necessarily have to be produced during the same marketing year.

(4) Article 7b(3) of Regulation (EC) No 951/2006 provides that applications for export licences shall be submitted each week, from Monday to Friday, starting on the date of entry into force of the Regulation fixing the quantitative limit pursuant to Article 12(d) of Council Regulation (EC) No 318/2006 [3] (replaced by Article 61, first paragraph, point (d) of Regulation (EC) No 1234/2007) and until the issue of licences is discounted in accordance with Article 7e of Regulation (EC) No 951/2006. It is appropriate to clarify that when the Regulation fixing the quantitative limit applies on a date other than the date of its entry into force, the applications for export licences can be submitted from the date that the said Regulation becomes applicable.

(5) Article 7b(4) of Regulation (EC) No 951/2006 provides that applicants may submit one application for export licence per week. The quantities applied for in respect of each license may not exceed 20 000 tonnes for sugar and 5 000 tonnes for isoglucose. Experience shows that the weekly maximum limit fixed for sugar is not sufficient and it is therefore appropriate to increase this quantity.

(6) According to Article 8a of Regulation (EC) No 951/2006, export licences issued for out-of-quota sugar or isoglucose are valid from the actual day of issue until 30 September of the marketing year in respect of which they were issued. Producers who apply for licences at the end of the marketing year should be given sufficient time to export their production. For this reason, the period of validity of export licences should be modified and established in the end of the fifth month following the date of their issue. Taking into account that these new provisions are published after the start of the 2009/2010 marketing year it is necessary to lay down specific rules in respect of the export licences issued during this marketing year.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 951/2006 is amended as follows:

1. in Chapter IIa, the following Articles 4d and 4e are added:

'Article 4d

Equivalence

Sugar or isoglucose produced under quota can be used as an equivalent of out-of-quota production. If the under-the-quota production is used as an equivalent of an out-of-quota production, it can accordingly be exported pursuant to the rules laid down in Article 61, first paragraph, point (d) of Council Regulation (EC) No 1234/2007 (*). This mechanism of equivalence shall also apply if producers of quota and out-of-quota sugar or isoglucose are located in different Member States.

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 178, 1.7.2006, p. 24.
[3] OJ L 58, 28.2.2006, p. 1.

Article 4e

Year of production

Sugar or isoglucose exported under licences issued in respect of the quantitative limit referred to in Article 61(d) of Regulation (EC) No 1234/2007 may be produced in a marketing year which is different to the one to which the export licence applies.

(*) OJ L 299, 16.11.2007, p. 1.';

2. in Article 7b, paragraphs 3 and 4 are replaced by the following:

'3. Applications for export licences shall be submitted each week, from Monday to Friday, starting on the date of application of the Regulation fixing the quantitative limit pursuant to Article 61, first paragraph, point (d) of Regulation (EC) No 1234/2007 and until the issue of licences is discounted in accordance with Article 7e of this Regulation.

4. Applicants may submit one application for export licence per week. The quantity applied for in respect of each export licence shall not exceed 50 000 tonnes in the case of sugar and 5 000 tonnes in the case of isoglucose.';

3. Article 8a is replaced by the following:

'Article 8a

Validity of export licences for out-of-quota exports

By way of derogation from the provisions of Article 5 of this Regulation, export licences issued in respect of the quantitative limit fixed pursuant to Article 61, first paragraph, point (d) of Regulation (EC) No 1234/2007 shall be valid as follows:

(a) licences issued between 1 October 2009 and 31 March 2010 shall be valid until 30 September 2010;

(b) licences issued as from 1 April 2010 shall be valid as of their date of issue until the end of the fifth following month.'

Article 2

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

Point 1 of Article 1 shall apply as from 1 October 2009.

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

Done at Brussels, 5 November 2009.

For the Commission
Mariann FISCHER BOEL
Member of the Commission