COMMISSION REGULATION (EU) No 1100/2010

of 26 November 2010

derogating from Regulation (EC) No 891/2009, as regards import duties for the CXL concessions sugar with order numbers 09.4317, 09.4318, 09.4319 and 09.4320, during the 2010/2011 marketing year

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 144(1) and 187, in conjunction with Article 4 thereof,

Whereas:

(1) The world market prices for raw cane sugar have been at a constant high level since the beginning of the 2010/2011 marketing year. Forecasts of world market prices based on the New York's sugar futures exchange market for the terms of March, May and July 2011 further indicate a constant high world market price.

(2) The forecasted EU sugar balance for the 2010/2011 marketing year identifies a negative difference of 0,2 million tonnes between utilisation and what should have been available. The cumulated negative difference between availability and utilisation over the last two marketing years, which is estimated at 0,6 million tonnes, would result in the lowest level of ending stocks since the implementation of the 2006 reform. Any further shortfall of imports threatens to disrupt the availability of supply of the European Union's sugar market and increase EU internal sugar market price.

(3) Pursuant to Commission Regulation (EC) No 891/2009 of 25 September 2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector [2], imports for CXL concessions sugar with order numbers 09.4317, 09.4318, 09.4319 and 09.4320 shall be subject to an in-quota rate of 98 EUR per tonne. Given the high level of world market prices for raw cane sugar, importing raw cane sugar for refining at an in-quota rate of 98 EUR per tonne is becoming uneconomical and risks disrupting the availability of supply on the European market.

(4) Considering that the situation is likely to continue, the in-quota rate of 98 EUR per tonne should be suspended for the remaining period of the 2010/2011 marketing year. It is accordingly appropriate to provide for the possibility for all interested operators to apply for licenses for the CXL concession at zero rate of import duties from 1 December 2010 until 31 August 2011.

(5) Import licences, which were issued before 1 December 2010 for the CXL quotas, should remain valid under the conditions applicable during the application period. However, to protect their legitimate expectations, the concerned operators should have the possibility to return unused or partly used import licences to the competent authority without incurring the penalty provided for in Article 15(1) of Regulation (EC) No 891/2009.

(6) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

1. By way of derogation from Article 3(1) and the second paragraph of Article 10 of Regulation (EC) No 891/2009, the import duty for CXL concessions sugar with order numbers 09.4317, 09.4318, 09.4319 and 09.4320 shall be reduced to zero until 31 August 2011.

2. Licenses for the CXL concession sugar, that were issued before 1 December 2010 may continue to be used under the conditions valid at the time those licenses had been applied for. Alternatively, they may be returned, in which case the penalty provided in Article 15(1) of Regulation (EC) No 891/2009 shall not apply.

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 254, 26.9.2009, p. 82.

Article 2

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

It shall apply from 1 December 2010.

This Regulation shall expire on 31 August 2011.

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

Done at Brussels, 26 November 2010.

For the Commission
The President
José Manuel BARROSO