

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

## CHAPTER I

### GENERAL PROVISIONS

#### *Article 1*

##### **Scope**

This Regulation opens and provides for the administration of the tariff quotas set out in Parts I and II of Annex I for the imports of the sugar products referred to in:

- (a) Schedule CXL (European Communities) referred to in Article 1(1) of Regulation (EC) No 1095/96;
- (b) Article 4(4) of Regulation (EC) No 2007/2000;
- (c) Article 27(2) of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part;
- (d) Article 27(5) of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part;
- (e) Article 14(2) of the Interim agreement on trade and trade-related matters between the European Community, of the one part, and the Republic of Albania, of the other part;
- (f) Article 12(3) of the Interim agreement on trade and trade-related matters between the European Community, of the one part, and Bosnia and Herzegovina, of the other part.

In addition, this Regulation provides for the administration of certain tariff quotas, as set out in Part III of Annex I, for imports of sugar products under:

- (a) Articles 186(a) and 187 of Regulation (EC) No 1234/2007;
- (b) Article 142 of Regulation (EC) No 1234/2007.

#### *Article 2*

##### **Definitions**

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

- (a) ‘CXL concessions sugar’ means the sugar set out in Schedule CXL (European Communities) referred to in point (a) of the first subparagraph of Article 1;
- (b) ‘Balkans sugar’ means sugar products falling within CN codes 1701 and 1702 originating in Albania, Bosnia and Herzegovina, Serbia, Kosovo<sup>(1)</sup>, the former Yugoslav Republic of Macedonia or Croatia and imported into the Community under the Acts referred to in points (b) to (f) of the first paragraph of Article 1;

- (c) 'exceptional import sugar' means the products of the sugar sector referred to in point (a) of the second paragraph of Article 1;
- (d) 'industrial import sugar' means the products of the sugar sector referred to in point (b) of the second paragraph of Article 1;
- (e) 'tel quel weight' means the weight of the sugar in the natural state;
- (f) 'refining' means the processing of raw sugars into white sugars as defined in points 1 and 2 of Part II of Annex III to Regulation (EC) No 1234/2007, and any equivalent technical operation applied to bulk white sugar.

### *Article 3*

#### **Opening and administration**

1 The tariff quotas shall be opened on an annual basis for the period from 1 October to 30 September.

The quantity of the products, the order number and the customs duty rate shall be as set in Annex I.

2 The tariff quota period shall be divided into subperiods of 1 month each. The quantities for the subperiods shall be as follows:

- 100 % for the first subperiod,
- 0 % for the remaining subperiods.

3 The tariff quotas shall be administered in accordance with the simultaneous examination method referred to in Chapter II of Regulation (EC) No 1301/2006.

### *Article 4*

#### **Applicability of Regulations (EC) No 1301/2006 and (EC) No 376/2008**

Regulations (EC) No 1301/2006 and (EC) No 376/2008 shall apply, save as otherwise provided for in this Regulation.

### *Article 5*

#### **Import licence applications**

1 Licence applications shall be submitted the first seven days of each subperiod referred to in Article 3(2).

2 The Commission shall suspend the submission of applications for licences until the end of the marketing year for the order numbers for which the available quantities are exhausted. However, the Commission shall withdraw the suspension and readmit applications when quantities become available again according to the notifications referred to in Article 9(2) (ii).

## Article 6

### Information to be filled in on the import licence applications and the import licences

The import licence applications and the import licences shall contain the following entries:

- (a) in box 8, the country of origin.  
For CXL concession sugar with order numbers 09.4317, 09.4318, 09.4319 and 09.4321 and for Balkan sugar, the word 'yes' in box 8 shall be marked by a cross. Those licences shall give rise to an obligation to import from the specified country;
- (b) in box 16, a single eight digit CN code;
- (c) in boxes 17 and 18, the quantity in kilograms in *tel quel* weight;
- (d) in box 20:
  - (i) either 'sugar intended for refining' or 'sugar not intended for refining'; and
  - (ii) one of the following entries:
    - for CXL concession sugar, one of the entries listed in Part A of Annex III,
    - for Balkan sugar, one of the entries listed in Part B of Annex III,
    - for exceptional import sugar, one of the entries listed in Part C of Annex III,
    - for industrial import sugar, one of the entries listed in Part D of Annex III,
  - (iii) the marketing year to which they relate;
- (e) in box 24, the customs duty concerned.

## Article 7

### Obligations linked to the submission of an import licence application

1 By way of derogation from Article 5 of Regulation (EC) No 1301/2006, the submission of the proof provided for in that Article may not be required for operators approved in accordance with Article 7 of Regulation (EC) No 952/2006.

2 The amount of the security referred to in Article 14(2) of Regulation (EC) No 376/2008 shall be EUR 20 per tonne.

3 For CXL concession sugar with order numbers 09.4317, 09.4318, 09.4319 and 09.4320, import licence applications shall be accompanied by the undertaking by the applicant to refine the quantities of sugar in question before the end of the third month following that in which the import licence concerned expires.

4 For CXL concession sugar with order numbers 09.4317, 09.4318, 09.4319 and 09.4321 and for Balkan sugar, import licence applications shall be accompanied by the original of the export licences, in accordance with the model in Annex II, issued by the competent

authorities of the third country concerned. The quantity mentioned in the import licence applications may not exceed the quantity shown on the export licences.

#### *Article 8*

##### **Issuance and validity of import licences**

Import licences shall be issued as of the 23rd and at the latest by the end of the month of submission of the applications.

They shall be valid until the end of the third month following that in which they are issued without exceeding 30 September, except for exceptional import sugar and industrial import sugar, which shall be valid until the end of the marketing year for which they are issued.

#### *Article 9*

##### **Notifications to the Commission**

1 Member States shall notify the Commission, at the latest on the 14th of the month of submission of the applications, of the total quantities covered by import license applications as referred to in Article 11(1)(a) of Regulation (EC) No 1301/2006.

2 By way of derogation from Article 11(1) of Regulation (EC) No 1301/2006, Member States shall notify the Commission at the latest on the 10th of each month of:

- (i) the quantities as referred to in Article 11(1)(b) of that Regulation and concerning licences issued during the preceding month;
- (ii) the quantities as referred to in Article 11(1)(c) of that Regulation and concerning licences returned during the preceding month.

3 The quantities referred to in paragraphs 1 and 2 shall be broken down by quota order number, the eight-digit CN code and whether or not they involve applications for a licence for sugar intended for refining. They shall be expressed in kilograms *tel quel* weight.

4 Member States shall notify the Commission before 1 March of each year of the following quantities concerning the previous marketing year:

- (i) the total quantity actually imported, broken down by order number, country of origin, the eight-digit CN code and expressed in kilograms *tel quel* weight;
- (ii) the quantity of sugar, by *tel quel* weight and in white sugar equivalent, that has actually been refined.

#### *Article 10*

##### **Release for free circulation**

Release for free circulation for the quotas of CXL concession sugar with order numbers 09.4317, 09.4318, 09.4319 and 09.4321 shall be subject to the presentation of a certificate of origin issued by the competent authorities of the third country concerned in accordance with Articles 55 to 65 of Regulation (EEC) No 2454/93.

For CXL concession sugar with order numbers 09.4317, 09.4318, 09.4319 and 09.4320, where the polarimetric reading of the imported raw sugar departs from 96 degrees, the rate of EUR 98 per tonne shall be increased or reduced, as appropriate, by 0,14 % per tenth of a degree difference established.

## CHAPTER II

### **SPECIFIC PROVISIONS FOR EXCEPTIONAL IMPORT SUGAR AND INDUSTRIAL IMPORT SUGAR**

#### *Article 11*

#### **Opening and quantities**

By way of derogation from Article 3(1), for exceptional import sugar and industrial import sugar, the opening of the tariff quota, the tariff quota period and the quantities of the products for which the application of all or part of the import duties is suspended shall be determined in accordance with the procedure referred to in Article 195 of Regulation (EC) No 1234/2007.

#### *Article 12*

#### **Processors of industrial import sugar**

By way of derogation from Article 5 of Regulation (EC) No 1301/2006, applications for import licences for industrial import sugar shall only be submitted by processors within the meaning of Article 2(d) of Regulation (EC) No 967/2006, even if such processors have not been involved in trade with third countries.

#### *Article 13*

#### **Use of import licences for industrial sugar**

1 Import licences for industrial import sugar issued for CN codes 1701 99 10 or 1701 99 90 may be used for the import of CN codes 1701 11 90, 1701 12 90, 1701 91 00, 1701 99 10 or 1701 99 90.

2 Industrial import sugar shall be used for the purposes of production of the products referred to in the Annex to Regulation (EC) No 967/2006.

3 Articles 11, 12 and 13 of Regulation (EC) No 967/2006 shall apply to industrial import sugar.

4 A processor shall supply proof, to the satisfaction of the competent authorities of the Member State, that the quantities imported as industrial import sugar have been used for the purposes of production of the products referred to in the Annex to Regulation (EC) No 967/2006 and in accordance with the approval referred to in Article 5 of that Regulation. This proof shall consist of the computerised recording in the records during or at the end of the production process of the quantities of the products concerned.

5 If processors have not supplied the proof referred to in paragraph 4 by the end of the seventh month following the month of import they shall pay, for each day of delay, a sum of EUR 5 per tonne of the quantity concerned.

6 If processors have not supplied the proof referred to in paragraph 4 by the end of the ninth month following the month of import, the quantity concerned shall be considered to be over declared within the meaning of Article 13 of Regulation (EC) No 967/2006.

## CHAPTER III

### TRADITIONAL SUPPLY NEEDS

#### *Article 14*

#### **Full-time refiners' regime**

1 Only full-time refiners may apply for import licences for sugar intended for refining with a start validity date during the first three months of each marketing year. By way of derogation from the second subparagraph of Article 8 such licences shall be valid to the end of the marketing year for which they are issued.

2 If, before the 1 January of each marketing year, applications for import licences for sugar for refining for that marketing year are equal or superior to the total of the quantities referred to in Article 153(1) of Regulation (EC) No 1234/2007, the Commission shall inform the Member States that the limit of the traditional supply needs for that marketing year has been reached at Community level.

From the date of that notification, paragraph 1 shall not apply for the marketing year concerned.

#### *Article 15*

#### **Proof of refining and penalties**

1 Each original holder of an import licence for sugar for refining shall, within six months following the expiry of the import licence concerned, provide the Member State which issued it with proof acceptable to it that refining has taken place within the period set in Article 7(3).

Where such a proof is not provided, the applicant shall pay, before 1 June following the marketing year concerned, an amount equal to EUR 500 per tonne for the quantities of sugar concerned, except for exceptional reasons of force majeure.

2 Sugar producers approved in accordance with Article 57 of Regulation (EC) No 1234/2007 shall declare to the competent authority in the Member State before 1 March following the marketing year concerned the quantities of sugar which they have refined in that marketing year, stating:

- a the quantities of sugar corresponding to import licences for sugar for refining;
- b the quantities of sugar produced in the Community, giving the references of the approved undertaking which produced that sugar;
- c other quantities of sugar, stating their origin.

Producers shall pay, before 1 June following the marketing year concerned, an amount equal to EUR 500 per tonne for the quantities of sugar referred to in point (c) of the first subparagraph for which they cannot provide proof acceptable to the Member State that they were refined, except for exceptional reasons of force majeure.

#### CHAPTER IV

### REPEAL AND FINAL PROVISION

#### *Article 16*

#### **Repeal**

Regulation (EC) No 950/2006 is repealed with effect from 1 October 2009.

However, licences issued in accordance with that Regulation shall be valid until their expiry date.

#### *Article 17*

#### **Entry into force and application**

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 October 2009.

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

Done at Brussels, 25 September 2009.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

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**Status:** This is the original version (as it was originally adopted).

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- (1) Under United Nations Security Council Resolution 1244/1999.