Commission Implementing Regulation (EU) 2015/1550 of 17 September 2015 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the import and refining of sugar products of CN code 1701 under preferential agreements, for the marketing years 2015/2016 and 2016/2017

COMMISSION IMPLEMENTING REGULATION (EU) 2015/1550

of 17 September 2015

laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the import and refining of sugar products of CN code 1701 under preferential agreements, for the marketing years 2015/2016 and 2016/2017

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007[(1)], and in particular Articles 178 and 180 and Article 192(5) thereof,

Whereas:

(1) Regulation (EU) No 1308/2013 has repealed and replaced Council Regulation (EC) No 1234/2007[(2)] and laid down specific rules for the import and refining of sugar products. Regulation (EU) No 1308/2013 empowers the Commission to adopt delegated and implementing acts in that respect. In order to ensure the smooth functioning of the system of import and refining of sugar products of CN code 1701 under preferential agreements in the new legal framework, certain rules have to be adopted by means of such acts. The new rules should replace the existing implementing rules laid down in Commission Regulation (EC) No 828/2009[(3)] that will expire on 30 September 2015.

(2) Commission Delegated Regulation (EU) 2015/1538[(4)] laid down the requirements to be fulfilled when applying for import licences for imports of sugar products of CN code 1701 under preferential agreements. Further rules should be established concerning the submission of import licence applications, the issuing and validity of import licences and notifications concerning the import licences.

(3) To avoid fraudulent applications, the list of eligible countries in Annex I to this Regulation should be limited to those countries identified as current or potential sugar exporters to the Union. Any country not currently listed in Annex I to this Regulation but listed either in Annex I to Council Regulation (EC) No 1528/2007[(5)] or in Annex I to Regulation (EU) No 978/2012 of the European Parliament and of the Council[(6)] should be eligible to be included in Annex I to this Regulation. To this effect, such a country should request the Commission to be listed in Annex I to this Regulation.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/1550. (See end of Document for details)*

(4) Commission Regulation (EC) No 376/2008[7] should apply to import licences issued under this Regulation, except as otherwise provided for in this Regulation.

(5) Considering that imports under certain preferential regimes are not subject to a limited quota quantity, it is opportune to facilitate customs procedures in view of establishing the import duties by allowing a tolerance with a customary level of plus or minus 5 % in licences for preferential sugar imports.

(6) To ensure uniform and equitable treatment for all operators, the period in which licence applications may be submitted and licences issued should be determined.

(7) Sugar imported for refining needs specific monitoring by the Member States. Therefore operators should specify as from the import licence application if the imported sugar is intended for refining or not.

(8) In accordance with Article 5 of Commission Regulation (EC) No 1301/2006[8], operators should submit, to the Member States in which they are registered for VAT purposes, proof that they have been trading sugar during a certain period. Operators approved in accordance with Article 7 of Commission Regulation (EC) No 952/2006[9] should be able to participate in the trading of preferential sugar, without submitting such a proof.

(9) Licence applications should bear a reference number linked to a third country listed in Annex I to this Regulation.

(10) For licences valid until 30 September for which the sugar was loaded at the latest by 15 September, small delays in the logistic chain other than *force majeure* could lead to physical imports after 30 September. To avoid the risk of paying the full import duty and the forfeit of the security, importers should be given the possibility to import that sugar loaded at the latest by 15 September of a marketing year based on an import licence issued for that marketing year. Therefore Member States should extend the validity of the import licence if the importer submits proof that the sugar was loaded at the latest by 15 September.

(11) For the sake of sound management of the agreements, the Commission should receive the relevant information in good time.

(12) In accordance with Article 192(3) of Regulation (EU) No 1308/2013, during the first three months of each marketing year, only full-time refiners should be able to apply for import licences for sugar for refining. Such licences are to be valid to the end of the marketing year for which they are issued. In order to ensure the respect of the exclusive import capacity of full-time refiners provided for in Article 192(1) of Regulation (EU) No 1308/2013, rules should be laid down concerning information to be notified to the Commission.

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

HAS ADOPTED THIS REGULATION:

Article 1

Scope

1 This Regulation lays down, for the marketing years 2015/2016 and 2016/2017, rules for the application of Regulation (EU) No 1308/2013 as regards the import and refining of sugar products of CN code 1701 referred to in Regulation (EC) No 1528/2007 and Regulation (EU) No 978/2012, originating in one of the countries listed in Annex I to this Regulation, in relation to:

a import licence applications;

b the issuing and the validity of import licences;

c notifications by Member States to the Commission concerning the import licenses, including the amount of product of CN code 1701 imported and refined.

2 A third country listed in Annex I to Regulation (EC) No 1528/2007 or in Annex I to Regulation (EU) No 978/2012 shall be eligible to be added on its own request to the list in Annex I to this Regulation.

3 Imports from third countries listed in Annex I to this Regulation, bearing the reference number as shown in that Annex, are to be duty-free and quota-free.

Article 2

Definitions

For the purposes of this Regulation, the definitions in Article 2 of Delegated Regulation (EU) 2015/1538 shall apply.

Article 3

Applicability of Regulation (EC) No 376/2008

1 Regulation (EC) No 376/2008 shall apply save as otherwise provided for in this Regulation or in Delegated Regulation (EU) 2015/1538.

2 Article 48(4) of Regulation (EC) No 376/2008 shall not apply where the quantity of sugar imported under the present Regulation is greater by not more than 5 % of the quantity indicated in the import licence. The additional quantity shall be considered to have been imported under that licence.

Article 4

Import licence applications

1 Import licence applications shall be submitted each week, from Monday to Friday, starting on the second Monday of September prior to the marketing year for which they are applied.

2 Article 5 of Regulation (EC) No 1301/2006 shall apply *mutatis mutandis*. However, the submission of proof provided for in that Article may not be required for operators approved in accordance with Article 7 of Regulation (EC) No 952/2006.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/1550. (See end of Document for details)*

3 Import licence applications and import licences shall contain the following entries:

a in box 8: the country of origin: one of the countries listed in Annex I to this Regulation. The word 'yes' being marked with a cross;

b in box 16, one or more eight-digit CN codes listed either as 'sugar intended for refining' or as 'sugar not intended for refining' as provided for in Article 5 of Delegated Regulation (EU) 2015/1538;

c in boxes 17 and 18: the quantity of sugar in 'tel. quel weight';

d in box 20:

(i) 'sugar intended for refining' or 'sugar not intended for refining',

(ii) at least one of the entries listed in part A of Annex II,

(iii) the marketing year to which they are related;

e in box 24:

(i) at least one of the entries listed in part B of Annex II,

(ii) if applicable the text listed in part C of Annex II.

4 Import licence applications shall be accompanied by proof that the applicant has lodged a security of EUR 20 per tonne of the quantity of sugar indicated in box 17 of the licence.

5 Import licence applications concerning imports from third countries listed in Annex I shall bear the reference number as shown in that Annex.

Article 5

Issue of import licences

1 On Thursday or Friday at the latest of each week, Member States shall issue licences for the applications submitted the preceding week and notified as provided for in Article 7(1). Import licences shall not be issued for quantities that had not been notified.

2 Licences shall be valid as from their date of issue or 1 October of the marketing year for which they are issued whatever is the latest.

3 Licences shall be valid to the end of the third month following their start validity date without exceeding 30 September of the marketing year for which they are issued.

Article 6

Extension of validity of import licences

For import licences with a validity ending on 30 September of a marketing year and at the request of the import licence holder, the competent body of the Member State of issue shall extend the period of validity of the import licence to 31 October if the titular holder submits proof, such as the bill of lading, acceptable to that competent body of the Member State of issue, that the sugar was loaded at the latest by 15 September of that marketing year. Member States shall notify this to the Commission not later than the first working day of the week following the extension of the validity.

Article 7

Notifications to the Commission

1 Member States shall notify the Commission, between Friday 1 p.m. (Brussels time) and the following Monday 6 p.m. (Brussels time), of the quantities of sugar, including nil returns, for which import licence applications have been submitted in accordance with Article 4 of this Regulation and Article 4(1) of Delegated Regulation (EU) 2015/1538.

2 Member States shall notify the Commission, between Friday 1 p.m. (Brussels time) and the following Monday 6 p.m. (Brussels time), the quantities of sugar, including nil returns, for which import licences have been issued as from the preceding Thursday in accordance with Article 5.

3 Member States shall notify the Commission, between Friday 1 p.m. (Brussels time) and the following Monday 6 p.m. (Brussels time), of the quantities, including nil returns, covered by unused or partly used import licences and corresponding to the difference between the quantities entered on the back of the import licences and the quantities for which they were issued.

4 The quantities notified in accordance with paragraphs 1, 2 and 3 shall be broken down by country of origin, the marketing year concerned and whether or not they involve sugar intended for refining. The reference number shall also be indicated. They shall be expressed in kilograms ‘tel. quel weight’.

5 Member States shall notify the Commission before 1 March and for the previous marketing year of the quantities of sugar which have actually been refined, broken down by reference number and country of origin and expressed in kilograms ‘tel. quel’ weight.

6 The notifications referred to in this Regulation shall be made in accordance with Commission Regulation (EC) No 792/2009[(10)].

7 Member States shall forward details of the quantities of products released for free circulation in accordance with Article 308d of Commission Regulation (EEC) No 2454/93[(11)].

Article 8

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 5(3) such licences shall be valid to the end of the marketing year for which they are issued.

2 If, before 1 January of each marketing year, applications for import licences for sugar for refining for that marketing year are equal or superior to the quantity referred to in Article 192(1) of Regulation (EU) No 1308/2013, the Commission shall inform the Member States that the limit of the exclusive import capacity for that marketing year has been reached at Union level. From the date of that notification, also non-full-time refiners can apply for the marketing year concerned.