Commission Regulation (EU) No 858/2010 of 28 September 2010 amending Regulation (EC) No 951/2006 as regards out-of-quota exports and export licences

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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 134 and 161(3), in conjunction with Article 4 thereof,

Whereas:

(1) Commission Regulation (EC) No 951/2006 of 30 June 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[(2)], establishes detailed rules for out-of-quota exports in the sugar sector.

(2) Article 4c of Regulation (EC) No 951/2006 provides for documents constituting proofs of arrival at destination, which must be furnished in case certain destinations are not eligible for exports of out-of-quota sugar and/or isoglucose. However, the risks of eventual trade frauds are rather limited where the quantity of sugar is small. To simplify the necessary administrative work it is therefore appropriate to provide for derogation from this rule in the case of quantities not exceeding 25 tonnes.

(3) Article 7c of Regulation (EC) No 951/2006 lays down provisions for communication on out-of-quota exports. In order to improve the management of the out-of-quota export regime it is appropriate to clarify that the communication of Member States on the applied quantities should be broken down by applicants as well.

(4) For the 2010/2011 marketing year Article 1(1) of Commission Regulation (EU) No 397/2010 of 7 May 2010 fixing the quantitative limit for exports of out-of-quota sugar and isoglucose until the end of the 2010/2011 marketing year[(3)] fixed the quantitative limit at 650 000 tonnes for white sugar falling within CN code 1701 99, i.e. for 6-digit code. In the case where demand is strong for the export licences and the annual quantitative limit is rapidly used, operators who export white sugar under different CN codes might not be able to obtain sufficient licences to cover their traditional markets. In order to improve the flexibility of the out-of-quota regime it is appropriate to allow that export licences issued for a white sugar product falling within CN code 1701 99 can also be used for the exports of a different white sugar product falling within the same CN code.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 858/2010. (See end of Document for details)*

(5) According to Article 8a(b) of Regulation (EC) No 951/2006 export licences for out-of-quota sugar or isoglucose issued as from 1 April 2010 are valid as of their date of issue until the end of the fifth month thereafter. However, that may cause serious difficulties for certain exporters, namely the ones that supply their traditional markets throughout the marketing year. It is therefore appropriate that the provisions for the marketing year 2009/2010 apply on a permanent basis.

(6) In accordance with Article 1(2)(b)(i) of Commission Regulation (EC) No 376/2008 of 23 April 2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products[(4)] export licences shall be presented in the case of exports of sugar products falling under CN code 1701. Pursuant to Part II of Annex II to that Regulation the amount of security to be lodged is fixed at EUR 110 per tonne. For reasons of legal certainty and to ensure equal treatment of operators in each Member State it is appropriate to clarify in Article 12a(1) of Regulation (EC) No 951/2006 that the security shall be lodged also in case of out-of-quota sugar exports.

(7) Regulation (EC) No 951/2006 should therefore be amended accordingly.

(8) 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 Article 4c of Chapter IIa the following paragraph 4 is added:

4. In case of export declarations concerning a maximum quantity of 25 tonnes of sugar, and when the conditions referred to in Article 24(2)(a) and (b) of Commission Regulation (EC) No 612/2009[(5)] are met, Member States shall exempt exporters from furnishing the proof provided in paragraph 1 and 2(b) and (c) of this Article. The transport document or its electronic equivalent as referred to in Article 17(3) of Regulation (EC) No 612/2009 shall be presented in any event.;

2. Chapter III is amended as follows:

(a) the second subparagraph of Article 7c(1) is replaced by the following:

> The quantities applied for shall be broken down by applicant and by eight-digit CN code without indicating the name of the applicant. The Member States shall also inform the Commission if no applications for export licences have been submitted.;

(b) the following Article 7f is inserted:

Article 7f

Use of export licences for out-of-quota sugar

Export licences issued for out-of-quota white sugar falling within CN code 1701 99 shall indicate CN codes 1701 99 10 and 1701 99 90 and shall be valid for any of them.;

(c) 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 and 30 April of the marketing year concerned shall be valid as of their date of issue until 30 September of the marketing year in question;

(b) licences issued between 1 May and 30 September of the marketing year concerned shall be valid as of their date of issue until the end of the fifth month thereafter.;

3. in Chapter V Article 12a is amended as follows:

(a) paragraph 1 is replaced by the following:

1. The applicant shall lodge a security of EUR 110 per tonne of out-of-quota sugar and EUR 42 per tonne of net dry matter in case of out-of-quota isoglucose.;

(b) paragraph 4 is replaced by the following:

4. Where certain destinations are excluded from exports of out-of-quota sugar and/or isoglucose, the security referred to in paragraph 1 shall be released once the requirements of paragraph 3 of this Article and the requirements of Article 4c of this Regulation are met.

Article 2

Entry into force

This Regulation shall enter into force on 1 October 2010.

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