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

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

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 143, 144(1), 148,156 and 188(2) in conjunction with Article 4 thereof,

Whereas:

(1) Commission Regulation (EC) No 950/2006 of 28 June 2006 laying down detailed rules of application for the 2006/2007, 2007/2008 and 2008/2009 marketing years for the import and refining of sugar products under certain tariff quotas and preferential agreements[(2)] expires on 1 October 2009. However, certain Community tariff quotas in the sugar sector continue to exist after that date. It is therefore necessary to lay down rules on the opening and administration of those tariff quotas.

(2) Pursuant to Article 1 of Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT XXIV.6 negotiations[(3)], the Commission is to adopt the measures for the implementation in agriculture of the concessions set out in schedule CXL (European Communities) forwarded to the World Trade Organisation. Under this schedule, the Community undertook to import from India a quantity of 10 000 tonnes at zero duty of sugar products falling within CN codes 1701. In the wake of the accession of Austria, Finland and Sweden and then of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia and then of Bulgaria and Romania to the European Union, and in the context of the conclusion of the negotiations under Article XXIV of the GATT, the Community further undertook to import from third countries a quantity of raw cane sugar for refining at a rate of duty of EUR 98 per tonne.

(3) Under Article 4(4) of Council Regulation (EC) No 2007/2000 of 18 September 2000 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process, amending Regulation (EC) No 2820/98 and repealing Regulations (EC) No 1763/1999 and (EC) No 6/2000[(4)], imports of sugar products falling within CN codes 1701 and 1702

originating in Bosnia and Herzegovina, Serbia and Kosovo[5] are subject to annual duty-free tariff quotas.

(4) A Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part, was signed in Luxembourg on 12 June 2006. Pending the completion of the procedures necessary for its entry into force, an 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[6], was signed and concluded, which entered into force on 1 December 2006.

(5) A Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, was signed in Luxembourg on 16 June 2008. Pending the completion of the procedures necessary for its entry into force, an Interim Agreement on trade and trade-related matters between the European Community, of the one part, and Bosnia and Herzegovina, of the other part[7], was signed and concluded, which entered into force on 1 July 2008.

(6) Pursuant to Article 27(5) of and Annex IV(h) to 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[8], as amended by the Protocol approved by Council Decision (EC) No 2006/882/EC[9], the Community is to allow duty-free access for imports into the Community of products originating in Croatia falling within CN codes 1701 and 1702, within the limit of an annual quantity of 180 000 tonnes (net weight).

(7) Under 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[10], which entered into force on 1 January 2006, the Community is to allow duty-free access for imports into the Community of products originating in the former Yugoslav Republic of Macedonia falling within CN codes 1701 and 1702, within the limit of an annual tariff quota of 7 000 tonnes (net weight).

(8) Pursuant Article 142 of Regulation (EC) No 1234/2007, the Commission may suspend import duties to guarantee the supply necessary for the manufacturing of products referred to in Article 62(2) Regulation (EC) No 1234/2007. Rules for the administration of the resulting quotas should be laid down.

(9) In addition, rules should be laid down for the administration of the quotas based on the application of Articles 186(a) and 187 of Regulation (EC) No 1234/2007, pursuant to which the Commission may suspend the import duties in whole or in part for certain quantities where sugar prices on the Community market rise or fall significantly or where sugar prices on the world market reach a level that disrupts or threaten to disrupt the availability of supply on the Community market.

(10) 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[11] and Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences[12] should apply to import licences issued under this Regulation, except as otherwise provided by this Regulation.

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

(12) Import licence applications for industrial sugar should be restricted to processors of industrial sugar. Such processors are not necessarily involved in trade with third countries. It is therefore necessary to provide for a corresponding derogation from Article 5 of Regulation (EC) No 1301/2006.

(13) According to Article 5 of Regulation (EC) No 1301/2006, 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. Nevertheless, operators approved in accordance with Article 7 of Commission Regulation (EC) No 952/2006 of 29 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 318/2006 as regards the management of the Community market in sugar and the quota system[13] should be able to apply for import licences for tariff quotas, irrespective of whether or not they have been involved in trade with third countries.

(14) Article 6(1) of Regulation (EC) No 1301/2006 provides that applicants for import licence should not lodge more than one import licence application for the same quota order number in respect of an import tariff quota period. For sugar, the marketing year is the import tariff quota period. In order to reduce the financial burden for the importers and to ensure fluid supply to the Community market, the intervals at which import licence applications are to be submitted should be monthly.

(15) 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.

(16) To ensure efficient management of sugar imports under this Regulation, Member States should keep records of the relevant data, and report them to the Commission. To improve checks, it should be laid down that imports of the products falling under the annual tariff quota should be monitored in accordance with Article 308d of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code[14].

(17) Article 153(3) of Regulation (EC) No 1234/2007 restricts, during the first three months of each marketing year and within the limit referred to in Article 153(1) of that Regulation, the issuing of import licences to full-time refiners. During that period, only full-time refiners should be able to apply for import licences for sugar for refining.

(18) The obligation to refine sugar should be verified by the Member States. If the original holder of the import licence is not able to provide the proof, a penalty should be paid.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 891/2009. (See end of Document for details)*

(19) All imported sugar refined by an approved operator should be based on an import licence for sugar for refining. Quantities for which such proof cannot be given should be charged a penalty.

(20) Given that industrial import sugar may only be used for the purposes of production of the products referred to in the Annex to Commission Regulation (EC) No 967/2006 of 29 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 318/2006 as regards sugar production in excess of the quota[(15)], the provisions on the management of the industrial raw material and the obligations on processors laid down by that Regulation should apply to the quantities imported.

(21) Regulation (EC) No 950/2006 should be repealed as from 1 October 2009. However, import licences issued in accordance with that Regulation with an expiry date after 1 October 2009 should remain valid.

(22) 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:

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) **[**[F1]. . . . .**]**

(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) **[**[F2]. . . . .**]**

(e) **[**[F3]Article 27(2) of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part;**]**

(f) **[**[F4]Article 27(3) of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part[(16)], as amended by the Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, to take account of the accession of the Republic of Croatia to the European Union[(17)];**]**

(g) **[**[F5]Article 26(4) of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Serbia, of the other part[(18)], as amended by the Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Serbia, of the other part, to take account of the accession of the Republic of Croatia to the European Union[(19)].**]**

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.

Textual Amendments

F1 Deleted by Commission Implementing Regulation (EU) No 1250/2014 of 21 November 2014 amending Regulation (EC) No 891/2009 as regards tariff quotas for sugar originating in Serbia.

F2 Deleted by Commission Regulation (EU) No 519/2013 of 21 February 2013 adapting certain regulations and decisions in the fields of free movement of goods, freedom of movement for persons, right of establishment and freedom to provide services, company law, competition policy, agriculture, food safety, veterinary and phytosanitary policy, fisheries, transport policy, energy, taxation, statistics, social policy and employment, environment, customs union, external relations, and foreign, security and defence policy, by reason of the accession of Croatia.

F3 Substituted by Commission Regulation (EU) No 707/2010 of 5 August 2010 amending Regulation (EC) No 891/2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector.

F4 Substituted by Commission Implementing Regulation (EU) 2017/704 of 19 April 2017 amending Regulation (EC) No 891/2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector.

F5 Substituted by Commission Implementing Regulation (EU) No 1250/2014 of 21 November 2014 amending Regulation (EC) No 891/2009 as regards tariff quotas for sugar originating in Serbia.

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 **[**[F1], **]****[**[F1]Kosovo**]****[**[F6]or**]** the former Yugoslav Republic of Macedonia **[**[F2]or Croatia**]** and imported into the Community under the Acts referred to in **[**[F3]points (b) to (g)**]** 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;