Commission Regulation (EC) No 910/2008 of 18 September 2008 amending Regulation (EC) No 951/2006 in respect of laying down detailed rules for out-of-quota exports in the sugar sector

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector[(1)], and in particular Article 40(1) thereof,

Whereas:

(1) According to Article 12(d) of Regulation (EC) No 318/2006 the sugar or isoglucose produced during a marketing year in excess of the quota referred to in Article 7 of that Regulation may be exported only within the quantitative limit to be fixed. To this end it should be considered an export quota within the meaning of Article 1(2)(b)(iii) 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[(2)].

(2) In respect of the sugar sector, Commission Regulation (EC) No 951/2006[(3)] lays down detailed rules for the implementation of Regulation (EC) No 318/2006 as regards trade with third countries.

(3) Commission Regulation (EC) No 952/2006[(4)] as amended by Regulation (EC) No 707/2008[(5)] simplified the use of methods for the determination of sugar content of syrups. It is therefore appropriate to harmonise the methods used in the case of export refunds with those laid down in Regulation (EC) No 952/2006.

(4) With a view to ensuring orderly management, preventing speculation and providing for effective controls, detailed rules should be laid down for submitting licence applications for out-of-quota exports of sugar and isoglucose. Such rules should make use of the procedures laid down by existing legislation, with suitable adaptations to reflect the specific needs of this sector.

(5) Further implementing provisions should be established for the administration of the quantitative limit to be fixed by another Act, in particular regarding the conditions for applying for export licences.

(6) In order to reduce the risks of possible frauds linked to the reintroduction on the Community market of out-of-quota sugar and/or isoglucose it may be decided to exclude certain destinations from the eligible destinations. For such cases it is necessary

to define those documents that would prove that the products in question have been imported into a country not excluded from the eligible destinations.

(7) Article 1 of Commission Regulation (EC) No 1541/2007 of 20 December 2007 on proof of completion of customs formalities for the import of sugar into third countries as provided for in Article 16 of Regulation (EC) No 800/1999[(6)] defines those documents that provide sufficient proofs of importation in case of differentiated export refunds. The same documents should also be accepted as proof for out-of-quota exports.

(8) Experience acquired has shown that the application for export licences concerning the specific (EX/IM) refining operations is very limited. Therefore, the relevant provisions of Regulation (EC) No 951/2006, namely Articles 13 to16 thereof, should be deleted. Transitional rules should nevertheless be laid down in respect of pending applications.

(9) According to Article 3 of Council Regulation (EC) No 1528/2007 of 20 December 2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements[(7)] all import duties shall be eliminated on imports of molasses into the Community originating in the ACP countries. Therefore Article 41 of Regulation (EC) No 951/2006 should be deleted.

(10) Part A of the Annex to Regulation (EC) No 951/2006 should be amended, as no reference to a specific Regulation should be mentioned therein beforehand. In accordance with Article 6(2) of Regulation (EC) No 951/2006, when the export refund is fixed pursuant to an invitation to tender, section 20 of the licence application and of the licence should contain a reference to the Regulation that opens a standing invitation to tender in a given marketing year.

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

(12) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 951/2006 is amended as follows:

1. In Article 3, paragraphs 2 and 3 are replaced by the following:

2. Without prejudice to paragraphs 3 and 4, the sucrose content plus, where applicable, the content of other sugars expressed as sucrose shall be calculated in accordance with points (d) and (e) of Article 3(3) of Commission Regulation (EC) No 952/2006[(8)].

3 In the case of syrups of a purity of not less than 85 % but less than 94,5 %, the sucrose content plus, where applicable, the content of other sugars expressed as sucrose shall be fixed at a flat rate of 73 % by weight in the dry state.

2. The following Chapter IIa is inserted:

CHAPTER IIa

OUT-OF-QUOTA EXPORTS

Article 4c

Proofs of arrival at destination

Where certain destinations are excluded for exports of out-of-quota sugar and/or isoglucose, products shall be deemed to have been imported into a third country on presentation of the following three documents:

(a) a copy of the transport document;

(b) a declaration that the product has been unloaded, drawn up by an official authority of the third country in question, by the official authorities of a Member State established in the country of destination, or by an international supervisory agency approved under Articles 16a to 16f of Regulation (EC) No 800/1999, certifying that the product has left the unloading site or at least that, to the knowledge of the authority or agency issuing the declaration, the product has not subsequently been reloaded with a view to being re-exported;

(c) a bank document issued by approved intermediaries established in the Community certifying that payment corresponding to the export in question has been credited to the account of the exporter opened with them, or proof of payment.

3. Article 7 is replaced by the following:

Article 7

Export licence for sugar or isoglucose without refund

Where sugar or isoglucose in free circulation in the Community market and not considered as "out-of-quota" is to be exported without refund, section 20 of the licence application and of the licence shall contain one of the entries listed in Part C of the Annex, according to the product in question as the case may be.

4. The following Articles 7a to 7e are inserted:

Article 7a

Export licences for out-of-quota exports

By way of derogation from the provisions of Article 5, exports of out-of-quota isoglucose within the quantitative limit referred to in Article 12(d) of Regulation (EC) No 318/2006 shall be subject to the presentation of an export licence.

Article 7b

Application for out-of-quota export licences

1 Applications for export licences in respect of the quantitative limit to be fixed pursuant to Article 12(d) of Regulation (EC) No 318/2006 may be submitted only by producers of beet and cane sugar or producers of isoglucose which are approved in accordance with Article 17 of Regulation (EC) No 318/2006 and to which a sugar or isoglucose quota has been allocated in respect of the marketing year concerned in accordance with Article 7 of that Regulation, account being taken of, as the case may be, of Articles 8, 9 and 11 of that Regulation.

2 Applications for export licences shall be submitted to the competent authorities of the Member State in which the applicant has been allocated a sugar or an isoglucose quota.

3 Applications for export licences shall be submitted each week, from Monday to Friday, starting on the date of entry into force of the Regulation fixing the quantitative limit pursuant to Article 12(d) of Regulation (EC) No 318/2006 and until the issue of licences is discounted in accordance with Article 7e.

4 Applicants may submit one application for export licence per week. The quantity applied for in respect of each export licence shall not exceed 20 000 tonnes in the case of sugar and 5 000 tonnes in the case of isoglucose.

5 The application for export licence shall be accompanied by proof that the security referred to in Article 12a(1) has been lodged.

6 Box 20 of the application for an export licence and the licence, as well as box 44 of the export declaration shall contain one of the following entries as the case may be:

a "out-of-quota sugar for export without refund"; or

b "out-of-quota isoglucose for export without refund".

Article 7c

Communication on out-of-quota exports

1 Member States shall notify the Commission, between Friday 1 p.m. (Brussels time) and the following Monday, of the quantities of sugar and/or isoglucose, for which applications for export licence have been submitted during the preceding week.

The quantities applied for shall be broken down by eight-digit CN code. The Member States shall also inform the Commission if no applications for export licences have been submitted.

This paragraph shall only apply to Member States for which a sugar and/or an isoglucose quota was fixed by Annex III and/or Point II of Annex IV to Regulation (EC) No 318/2006.

2 The Commission shall draw up weekly records of the quantities for which export licence applications have been submitted.

Article 7d

Issue of licences

1 Every week from Friday and until the end of the following week at the latest Member States shall issue licences for the applications submitted the preceding week and notified as provided for in Article 7c(1), as the case may be taking account of the allocation coefficient fixed by the Commission in accordance with Article 7e.

Export licences shall not be issued for quantities that had not been communicated.

2 Member States shall communicate, on the first working day of each week, to the Commission, the quantities of sugar and/or isoglucose for which export licences have been issued during the preceding week.

3 Member States shall keep a record of the quantities of sugar and/or isoglucose actually exported under the export licences.

4 Member States shall communicate to the Commission before the end of each month, the quantities of sugar and/or isoglucose actually exported under the export licences during the preceding month.

5 Paragraphs 2, 3 and 4 of this Article shall only apply to Member States for which a sugar and/or an isoglucose quota was fixed by Annex III and/or Point II of Annex IV to Regulation (EC) No 318/2006.

Article 7e

Suspension of issuing export licences for out-of-quota exports

Where the quantities applied for export licences exceed the quantitative limit fixed pursuant to Article 12(d) of Regulation (EC) No 318/2006 for the period concerned, the provisions laid down in Article 9 of this Regulation shall apply *mutatis mutandis*.

5. The following Article 8a is inserted:

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 12(d) of Regulation (EC) No 318/2006 shall be valid from the actual day of issue until 30 September of the marketing year in respect of which the export licence was issued.

6. In Section 1 of Chapter V, the following Article is added: