COMMISSION REGULATION (EC) No 892/2008
of 12 September 2008
amending Regulation (EC) No 950/2006 laying down detailed rules of application for the 2006/07, 2007/08 and 2008/09 marketing years for the import and refining of sugar products under certain tariff quotas and preferential agreements

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)(e)(iii),

Whereas:

(1) By Decisions 2007/626/EC (2) and 2007/627/EC (3) the Council decided to denounce, on behalf of the Community, the Agreement with India on cane sugar (Agreement with India) (4), and Protocol 3 on ACP Sugar appearing in the ACP-EEC Convention of Lomé signed on 28 February 1975 and the corresponding declarations annexed to that Convention, contained in Protocol 3 attached to Annex V to the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000 (5) (Protocol 3 on ACP sugar), respectively, with effect from 1 October 2009. Certain provisions of Commission Regulation (EC) No 950/2006 (6) therefore need to be adapted in order to take the new legal situation into account.

(2) Article 7(2) 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) opens additional tariff rate quotas for products of tariff heading 1701 for the period from 1 October 2008 to 30 September 2009. Regulation (EC) No 950/2006 therefore also needs to be adapted in order to take the new legal situation into account.

(3) 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 (8), was signed and concluded and entered into force on 1 December 2006. The bilateral trade concessions on the Community side are equivalent to the concessions applicable within the unilateral autonomous trade measures under Council Regulation (EC) No 2007/2000 (9). However, the definitions in Articles 1 and 2 of Regulation (EC) No 950/2006 should take this new legal situation into account.

(4) 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 (10), was signed and concluded and entered into force on 1 July 2008. The bilateral trade concessions on the Community side are equivalent to the concessions applicable within the unilateral autonomous trade measures under Regulation (EC) No 2007/2000. However, the definitions in Articles 1 and 2 of Regulation (EC) No 950/2006 should take this new legal situation into account.

(5) Article 4(5) of Regulation (EC) No 950/2006 determines the first period for submission of applications for import licences. For the delivery period which runs between 1 July 2009 and 30 September 2009, sufficient time should be given to operators to organise the trade. Therefore the first period for submission of applications for import licence applications should start immediately after the publication of the delivery obligations for that period.

(6) Protocol 3 on ACP sugar and the Agreement with India will no longer bind the Community after 30 September 2009. Therefore, import licence requests should be lodged at the latest on 18 September 2009. Article 4(5) of Regulation (EC) No 950/2006 should be amended accordingly.

(4) OJ L 190, 23.7.1975, p. 36.
In the case where licence applications reach or exceed the quantity of one of the delivery obligations, Article 50(1) of Commission Regulation (EC) No 950/2006 provides for the fixing of an allocation coefficient by the Commission. Since Protocol 3 on ACP sugar and the Agreement with India will no longer bind the Community after 30 September 2009, the flexibility provided for the issuing of import licences for ACP/India sugar should not apply for the last two delivery periods. The communication of actually imported quantities foreseen in Article 8(a) of Regulation (EC) No 950/2006 is used to calculate the transfer of eventual excess quantities to the following delivery period. The delay for this communication is three months and therefore the information necessary for the calculation will not be available. Therefore, in the case where licence applications reach or exceed the quantity of one of the delivery obligations for the delivery period 2008/2009 and the delivery period which runs between 1 July 2009 and 30 September 2009, an allocation coefficient needs to be fixed.

The non-reciprocal trade preferences contained in Annex V to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 expired on 31 December 2007. Therefore the proof of origin issued in accordance with Article 14 of Protocol 1 attached to Annex V to the ACP-EC Partnership Agreement no longer applies to countries which are not included in Annex I to Council Regulation (EC) No 1528/2007. However, the preference granted under Protocol 3 on ACP sugar continues to apply until 30 September 2009. Therefore, at the moment of lodging of import licence applications for ACP/India sugar, an accompanying document issued by the competent authority of the exporting country should be submitted. As it has been so far, the exporting countries should still be able to issue a document that differs from the export licence referred to in Articles 16(2) and 21(2)(a) of Regulation (EC) No 950/2006. Provision should, therefore, be made for the possibility of the issuing of such an alternative document based on the same model as the proof of origin issued in the past.

Import licence applications and licences require the indication of the delivery period in their box 20. For reasons of clarity, a specific mention should be given for the delivery period which runs between 1 July 2009 and 30 September 2009.

If an import licence for industrial import sugar is transferred, the obligation to process the imported quantities into 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 should remain with the initial holder of the import licence. Article 6(4) should be amended accordingly.

Import licence requests 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 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.

Given that imported industrial sugar may only be used for the purposes of production of the products referred to in the Annex to Regulation (EC) No 967/2006, 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.

In accordance with Article 7(2) of Regulation (EC) No 1528/2007, the additional tariff rate quotas available under that provision have to be divided between regions according to quantities to be determined in conformity with the agreements qualifying regions or states for inclusion in Annex I to that Regulation. The initialling of such agreements between certain regions and states, of the one part, and the European Community, of the other part, qualified these regions and states for inclusion in the said Annex I. The quantities of the additional tariff rate quotas are determined in these agreements.

Those additional tariff rate quotas should be opened and administered in accordance with Regulation (EC) No 950/2006. It is therefore appropriate to assign quantities to countries, or regions, subject to the precondition that those countries are listed in Annex I to Regulation (EC) No 1528/2007. Such quantities may be assigned to specific countries in their own right and also as part of a region. Certain specificities concerning the information that should be contained in the licence applications and the licences themselves should be laid down.

Export licences for non-preferential exports have been used to apply for preferential import licences. Therefore, the export licence referred to in Annex II to Regulation (EC) No 950/2006 should clearly state that the licence relates to exports of preferential sugar to the EU.

Regulation (EC) No 950/2006 should therefore be amended accordingly.

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 950/2006 is amended as follows:

1. Article 1 is amended as follows:

(a) in paragraph 1, the following points are added:

(j) 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 (**);

(k) 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 (**).


(b) paragraph 2 is replaced by the following:

‘2. Quantities imported in accordance with the provisions referred to in paragraph 1(c) to (k) (hereinafter referred to as tariff quotas), and with the provisions referred to in points (a) and (b) of that paragraph (hereinafter referred to as delivery obligations) for the 2006/07, 2007/08 and 2008/09 marketing years shall bear the quota order numbers shown in Annex I.’

2. Article 2 is amended as follows:

(a) point (d) is replaced by the following:

‘(d) “Balkans sugar” means sugar products falling within CN codes 1701 and 1702 originating in Albania, Bosnia and Herzegovina, Serbia, Kosovo, the former Yugoslav Republic of Macedonia or Croatia and imported into the Community under Regulation (EC) No 2007/2000, the Stabilisation and Association Agreement with the former Yugoslav Republic of Macedonia, the Stabilisation and Association Agreement with the Republic of Croatia, 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 and 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;’

(b) point (i) is replaced by the following:

‘(i) “delivery period” means the period defined in Article 4 of the ACP Protocol and Article 4 of the Agreement with India. However, in respect of the delivery period beginning on 1 July 2009, “delivery period” means the period between 1 July 2009 and 30 September 2009, the date on which the ACP Protocol and the Agreement with India cease to bind the Community;’
(c) the following point is added:

'(p) "Additional EPA sugar" means sugar falling within CN code 1701 originating in regions and states which are listed in Annex I to Regulation (EC) No 1528/2007.'

3. In Article 4(5), the following subparagraphs are added:

For the delivery period beginning on 1 July 2009, the first period for submission of applications for import licences shall start on the Monday following the entry into force of the Regulation determining the delivery obligations for this period.

For ACP/India sugar, the last day for the submission of applications for import licences shall be 18 September 2009.

4. In the third subparagraph of Article 5(3), the following sentence is added:

'For delivery period 2008/2009 and the delivery period beginning on 1 July 2009.'

5. In Article 6(4), the second phrase is replaced by the following:

'Obligations to import, to refine or to process industrial import sugar are not transferable.'

6. In Article 15(3) the following subparagraph is added:

'However, the first subparagraph shall not apply for the delivery period 2008/2009 and the delivery period beginning on 1 July 2009.'

7. Article 16 is amended as follows:

(a) paragraph 1 point (c) is replaced by the following:

'(c) in box 20: the delivery period to which they relate or for the delivery period beginning on 1 July 2009, the mention ‘1 July 2009 to 30 September 2009’ and at least one of the entries listed in part A of Annex III.'

(b) paragraph 2 is replaced by the following:

'2. Import licence applications shall be accompanied by the original of the export licence issued by the competent authorities of the exporting country, of the EUR.1 movement certificate based on the model set out in Annex II for the countries covered by the ACP Protocol or the proof of origin provided for in Article 18 for India.'

8. In Article 17 paragraphs 1 and 2 are replaced by the following:

1. Upon import, a document shall be presented to the customs authorities bearing:

(a) at least one of the entries listed in part A of Annex III;

(b) the date of embarkation of the goods and the delivery period concerned;

(c) the CN subheading for the product concerned.

2. The document referred to in paragraph 1 containing the description of sugar falling within CN code 1701 99 may be used, where appropriate, for imports of sugar falling within CN code 1701 11.

9. Article 21(2)(a) is replaced by the following:

'(a) the original of the export licence issued by the competent authorities of the exporting country or of one of the exporting countries in accordance with the model in Annex II for a quantity equal to that in the licence application. This export licence may be replaced by a certified copy, issued by the competent authorities of the exporting country of the EUR.1 movement certificate based on the model set out in Annex II for the countries covered by the ACP Protocol or the proof of origin provided for in Article 23 for India.'

10. The first subparagraph of Article 22(1) is replaced by the following:

'Upon import, a document shall be presented to the customs authorities bearing:'
11. In Article 28(2), the third indent is replaced by the following:

‘— Serbia including Kosovo 180 000 tonnes,’

12. In Article 30, paragraph 2 is deleted.

13. The following Articles 30a to 30d are inserted:

‘Article 30a
The products imported as industrial import sugar shall be used for the purposes of production of the products referred to in the Annex to Commission Regulation (EC) No 967/2006 (*).

Article 30b
By way of derogation from Article 5 of Regulation (EC) No 1301/2006, applications for import licences for industrial import sugar may be submitted only by processors within the meaning of Article 2(d) of Regulation (EC) No 967/2006.

Article 30c
Articles 11, 12 and 13 of Regulation (EC) No 967/2006 shall apply to imports of industrial import sugar.

Article 30d
1. A processor shall supply proof, to the satisfaction of the competent authorities of the Member State, that he used the quantities imported as industrial import sugar 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 Regulation (EC) No 967/2006. 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.

2. If processors have not supplied the proof referred to in paragraph 1 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.

3. If processors have not supplied the proof referred to in paragraph 1 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.


14. The following Chapter VIIIa is inserted:

‘CHAPTER VIIIa
ADDITIONAL EPA SUGAR

Article 31a
The quantities available under the additional tariff rate quotas opened for products of tariff heading 1701 for the period from 1 October 2008 to 30 September 2009 in accordance with Article 7(2) of Regulation (EC) No 1528/2007 shall be allocated as follows:

— Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe 75 000 tonnes,

— Burundi, Kenya, Rwanda, Tanzania, Uganda 15 000 tonnes,

— Swaziland 30 000 tonnes,

— Mozambique 20 000 tonnes,

— Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago 30 000 tonnes,

— Dominican Republic 30 000 tonnes,

— Fiji, Papua New Guinea 30 000 tonnes.

Article 31b
1. Import licence applications and licences shall contain the following entries:

(a) in box 8: the country or countries of origin which must be listed in Annex I to Regulation (EC) No 1528/2007, the word "yes" being marked with a cross;

(b) in boxes 17 and 18: the quantity in white sugar equivalent weight, which may not exceed the initial quantity provided for in Article 31a;

(c) in box 20 at least one of the entries listed in part J of Annex IV to this Regulation.
2. Import licence applications shall be accompanied by the original of the export licence issued by the competent authorities of the exporting country or of one of the exporting countries in accordance with the model in Annex II to this Regulation for a quantity equal to that in the licence application. This export licence may be replaced by a certified copy, issued by the competent authorities of the exporting country, of the proof of origin referred to in Title IV of Annex II to Regulation (EC) No 1528/2007.

15. The Annexes are amended as follows:

(a) Annex I is amended in accordance with Annex I to this Regulation;

(b) Annex II is amended in accordance with Annex II to this Regulation;

(c) Annex IIa is inserted, the text of which is as set out in Annex III to this Regulation;

(d) Annex III is amended in accordance with Annex IV to this Regulation.

Article 2

This Regulation shall enter into force on the seventh day following its publication in the Official Journal of the European Union.

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

Done at Brussels, 12 September 2008.

For the Commission
Mariann FISCHER BOEL
Member of the Commission
Annex I to Regulation (EC) No 950/2006 is amended as follows:

1. the table relating to Balkans sugar is replaced by the following:

<table>
<thead>
<tr>
<th>Third country</th>
<th>Order number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>09.4324</td>
</tr>
<tr>
<td>Bosnia and Herzegovina</td>
<td>09.4325</td>
</tr>
<tr>
<td>Serbia and Kosovo</td>
<td>09.4326</td>
</tr>
<tr>
<td>Former Yugoslav Republic of Macedonia</td>
<td>09.4327</td>
</tr>
<tr>
<td>Croatia</td>
<td>09.4328</td>
</tr>
</tbody>
</table>

2. the following table is added:

<table>
<thead>
<tr>
<th>Third country</th>
<th>Order number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe</td>
<td>09.4431</td>
</tr>
<tr>
<td>Burundi, Kenya, Rwanda, Tanzania, Uganda</td>
<td>09.4432</td>
</tr>
<tr>
<td>Swaziland</td>
<td>09.4433</td>
</tr>
<tr>
<td>Mozambique</td>
<td>09.4434</td>
</tr>
<tr>
<td>Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago</td>
<td>09.4435</td>
</tr>
<tr>
<td>Dominican Republic</td>
<td>09.4436</td>
</tr>
<tr>
<td>Fiji, Papua New Guinea</td>
<td>09.4437</td>
</tr>
</tbody>
</table>
ANNEX II

ANNEX II

Model export licence referred to in Articles 16(2), 21(2)(a), 29(2) and 31b(2)

<table>
<thead>
<tr>
<th>1. Exporter (name, full address, country)</th>
<th>ORIGINAL</th>
<th>2. No</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>3. Marketing year or delivery period</td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>4. Importer (name, full address, country)</th>
<th>(optional)</th>
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<tr>
<th>5. Place and date of loading — means of transport</th>
<th>(optional)</th>
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<tr>
<th>8. Additional details</th>
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<table>
<thead>
<tr>
<th>9. Designation of goods</th>
<th>10. CN code (8-digit)</th>
<th>11. Quantity (kg)</th>
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<tr>
<th>12. CERTIFICATION BY COMPETENT AUTHORITY</th>
</tr>
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<table>
<thead>
<tr>
<th>13. Competent authority (name, full address, country)</th>
<th>At: ........................................ On: ........................................</th>
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</thead>
</table>

<table>
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<tr>
<th>(signature)</th>
<th>(stamp)</th>
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</table>
ANNEX III

ANNEX IIa

Model for the EUR.1 movement certificate referred to in Articles 16(2) and 21(2)(a)

<table>
<thead>
<tr>
<th>1. Exporter (name, full address, country)</th>
<th>EUR.1</th>
<th>No A</th>
<th>000.000</th>
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</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

2. Certificate used in preferential trade between

AND

3. Consignee (name, full address, country) (Optional)

(insert appropriate countries, groups of countries or territories)

4. Country, group of countries or territory in which the products are considered as originating

5. Country, group of countries or territory of destination

6. Transport details (Optional)

7. Remarks

8. Item number; Marks and numbers; Number and kind of package (\(^1\)); Description of goods

9. Gross mass (kg) or other measure (litres, m\(^3\), etc.)

10. Invoices (Optional)

11. CUSTOMS ENDORSEMENT

<table>
<thead>
<tr>
<th>Declaration certified</th>
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</thead>
<tbody>
<tr>
<td>Export document ((\wedge))</td>
</tr>
</tbody>
</table>

Form

No ...........................................
Customs office ....................................
Issuing country or territory ......................
...........................................................................
Date ............................................

(Signature)

12. DECLARATION BY THE EXPORTER

I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate

Place and date ........................................
...........................................................................

(Signature)

\(^1\) If goods are not packed, indicate number of articles or state "in bulk" as appropriate.

\(^\wedge\) Complete only where the regulations of the exporting country or territory require.
In Annex III to Regulation (EC) No 950/2006, the following part is added:

J. Entries referred to in Article 31b(1)(c):

— in Bulgarian: Приложение на Регламент (ЕО) № 950/2006, допълнителна захар по СИП. Пореден номер [поредният номер се вписва съгласно приложение I]

— in Spanish: Aplicación del Reglamento (CE) no 950/2006, azúcar adicional AAE. Número de orden [se inscribe de acuerdo con el Anexo I]


— in Danish: Anvendelse af forordning (EF) nr. 950/2006, supplerende ØPA-sukker. Løbenummer [løbenummer sættes i tilfælde bilag I]


— in Greek: Εφαρμογή του κανονισμού (ΕΚ) αριθ. 950/2006, πρόσθετη ζάχαρη ΣΟΕΣ: αύξων αριθμός [συμπληρώνεται ο αύξων αριθμός σύμφωνα με το παράρτημα I]

— in English: Application of Regulation (EC) No 950/2006, additional EPA sugar. Order No [order number to be inserted in accordance with Annex I]

— in French: Application du règlement (CE) no 950/2006, sucre APE supplémentaire. Numéro d'ordre [numéro d'ordre à insérer conformément à l'annexe I]

— in Italian: Applicazione del regolamento (CE) n. 950/2006, zucchero APE supplementare. Numero d'ordine [inserire in base all’allegato I]

— in Latvian: Regulas (EK) Nr. 950/2006 piemērošana, papildu EPA cukurs. Sērijas Nr. (sērijas numurs ir jāievieto saskaņā ar I pielikumu)

— in Lithuanian: Taikomas Reglamentas (EB) Nr. 950/2006, papildomas EPS cukrus. Eilės numeris [eilės numeris įrašytinas pagal I priedą]

— in Hungarian: A 950/2006/EK rendelet alkalmazása, kiegészítő GPA-cukor. Tételeszám [a tételeszámot az I. mellékletnek megfelelően kell beilleszteni]


— in Polish: Zastosowanie rozporządzenia (WE) nr 950/2006, dodatkowy cukier z umów o partnerstwie gospodarczym. Numer porządkowy [numerator porządkowy zostanie wpisany zgodnie z załącznikiem I]


— in Romanian: Aplicarea Regulamentului (CE) nr. 950/2006, açucar APE suplimentar. Nume de ordine [se introduce numărul de ordine în conformitate cu anexa I]


— in Swedish: Tillämpning av förordning (EG) nr 950/2006, tilläggssocker enligt ekonomiskt partnerskapsavtal (EPA). Lönnummer [lönnummer ska införas i enlighet med bilaga I]