

COMMISSION DECISION

of 24 June 1999

laying down measures for the application of the Order of the President of the Court of First Instance of the European Communities of 30 April 1999 in Case T-44/98 RII

(notified under document number C(1999) 1736)

(1999/422/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

- (1) Whereas on 30 April 1999 the President of the Court of First Instance of the European Communities made an order in Case T-44/98 RII (Emesa Sugar (Free Zone) NV — hereinafter called 'Emesa' — v. the Commission of the European Communities), suspending, as regards Emesa, the application of Article 108b of Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community⁽¹⁾, as last amended by Decision 97/803/EC⁽²⁾, of Commission Regulation (EC) No 2553/97 of 17 December 1997 on rules for issuing import licences for certain products covered by CN codes 1701, 1702, 1703 and 1704 and qualifying as ACP/OCT originating products⁽³⁾, and of the Commission Decision of 23 December 1997 (VI/51329)⁽⁴⁾, (hereinafter called the 'Order');
- (2) Whereas, in addition, the Order authorised Emesa to import ground sugar originating in the overseas countries and territories (OCTs), within the meaning of Article 6 of Annex II to Decision 91/482/EEC, on the conditions set out in that Decision as they applied up to 30 November 1997 and subject to certain requirements and restrictions;
- (3) Whereas in order to enable Emesa to carry out the transactions for which it received authorisation in the Order, the implementing provisions which the Member States and Emesa must observe should be laid down,

HAS ADOPTED THIS REGULATION:

Article 1

Emesa Sugar (Free Zone) NV, a company set up under Aruban law, established in Oranjestad, Aruba, is hereby authorised to import into the Community, during the

period 1 May to 31 October 1999, 7 500 tonnes of ground sugar originating in the OCTs within the meaning of Article 6 of Annex II to Decision 91/482/EEC, subject to the following conditions:

1. Importation shall be conditional on the issue of an import licence. The competent authorities in the Member States shall issue licences in accordance with the applicable provisions of Commission Regulation (EEC) No 3719/88⁽⁵⁾.

Box 24 of the licence shall contain the entry 'ORDER OF THE PRESIDENT OF THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES IN CASE T-44 RII OF 30.4.1999'.

Emesa shall establish a security of EUR 3/tonne which shall be released if the goods are imported in accordance with the import licence.

2. Sugar originating in the OCTs imported into the Community in accordance with the Order shall be sold at a price at least equivalent to EUR 63,19 per 100 kilograms of standard quality white sugar as defined in Council Regulation (EEC) No 793/72⁽⁶⁾.

In addition to the security provided for in the last paragraph of point 1, Emesa shall lodge at the customs office where the formalities of release for free circulation are carried out, at the latest on the day on which the sugar is declared to the customs authorities, a bank guarantee of USD 28/tonne.

The security shall be released by order of the President of the Court in favour of Emesa if the Court of Justice of the European Communities declares, in its judgment in Case C-17/98, that Article 108b of Decision 91/482/EEC is void.

Article 2

Import licences shall be issued and the goods shall be imported not later than 31 October 1999.

Article 3

Emesa shall not apply for import licences pursuant to Regulation (EC) No 2553/97.

⁽¹⁾ OJ L 263, 19.9.1991, p. 1.

⁽²⁾ OJ L 329, 29.11.1997, p. 50.

⁽³⁾ OJ L 349, 19.12.1997, p. 26.

⁽⁴⁾ Not published in the Official journal.

⁽⁵⁾ OJ L 331, 2.12.1988, p. 1.

⁽⁶⁾ OJ L 94, 21.4.1972, p. 1.

Article 4

Council Regulation (EEC) No 2913/92 shall apply provided it does not conflict with the provisions of this Decision.

Article 5

This Decision shall apply with effect from 1 June 1999.

Article 6

This Decision is addressed to the Member States and Emesa Sugar (Free Zone) NV.

Done at Brussels, 24 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission
