

MINUTES OF THE MEETING ED&F MAN-EU COMMISSION
(BRUSSELS, JUNE 4TH 2013)

1. ATTENDEES:

- Mirosław Zielinski (Director Customs Policy, Legislation & Tariffs)
- [DELETED - European Commission, DG TAXUD official]
- Jack Straw (ED&F Man representative)
- [DELETED] (ED&F Man representative)
- [DELETED] (ED&F Man representative)
- [DELETED] (ED&F Man representative)

2. MINUTES:

In the course of the meeting several issues were discussed:

o Introduction and purpose of the meeting

The meeting was held at the request of ED&F Man to obtain legal certainty over some doubts that have arisen regarding the use of the equivalence system authorized in the Annex 74 of Commission Regulation (EEC) No. 2454/93 of July 2, 1993 laying down provisions for the implementation of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code (“**Regulations 2454/93**”).

[DELETED]. The purpose of the meeting was [DELETED] to give legal certainty to IPP operations¹ regarding sugar.

o There is no market for raw beet sugar

ED&F Man representatives explained that in their view the main difficulty in the way of a correct interpretation of Annex 74.3, as an equivalence between imported raw cane sugar for communitarian raw beet sugar, was the fact that there was no effective market for raw beet sugar in the European Union. This had been admitted by the European Commission itself: “(...) *raw beet sugar is not useable – nor merchantable – as such, since the impurities give it a disagreeable taste. The industrial processing of*

¹ A previous short memo was sent to all parties regarding the existing uncertainties.

beet involves that it is always continued to the white sugar stage of the marketed product.”²

The officials of the Commission said that they would check the references mentioned and discuss the issue with the EU Member States.

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o Rational to equivalence in Annex 74.3

ED&F Man representatives explained the doubts and problems on how wide should the exception be when referring to sugar.

Commission officials said that customs rules had to be observed, that Annex 74, as similar rules for other products, was a simplification rule (that admitted the equivalence as the final product is always white sugar). They added that there was a possibility to use raw beet sugar since there is a stage during the production when raw beet sugar appears.

Commission officials accepted that this rule had been approved in the nineties, although several times reenacted.

o Different rates of yield of raw beet sugar and raw cane sugar

ED&F Man representatives questioned that, taking into account that Annex 74 was an exception and that it allowed equivalence between different products (raw cane sugar and raw beet sugar) with logically different rates of yield, the authorization should provide two different rates of yield, one for the imported raw cane sugar if equivalence is not used and one for raw beet sugar in cases where equivalence was used.

The Commission officials said that the rate of yield of the raw materials might be different but that a practical approach must be followed and that, therefore, there is only one rate of yield to be applied with regard to the raw sugar which has been actually processed into white sugar.

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o Possibility that IPPs could affect the Communitarian sugar market

ED&F Man representatives mentioned that, if equivalence was to take place between raw sugars, the sugar quota³ in the European Union needed to remain at the same level since the different polarization of raw cane sugar and raw beet sugar could lead to different amounts of white sugar re-exported and processed.

² The original, in French: “Le sucre brut de betterave n’est pas utilisable -ni commercialisé- tel quel car les impuretés lui confèrent un goût désagréable. Désormais, le processus industriel se poursuit toujours jusqu’au sucre blanc qui est le produit commercialisé”. September 2004, AGRI/63362/2004, page 5, subsection 2.1.1.

³ As determined in Regulation EC1234/2007

The Commission officials explained that the use of IPP with or without the equivalence system does not affect the sugar quota. Raw sugar is not declared for release for free circulation.

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o Possibility of using EX/IM procedure instead of IM/EX procedure

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The Commission officials mentioned that they were aware that in Germany the EX/IM procedure was being followed and that the practical problems arising were less than in an IM/EX procedure.

ED&F Man representatives mentioned that they would check it and find out, but in any event were interested in knowing how IM/EX procedure was working.

o End of the meeting and final decision

The Commission officials accepted that the rule of Annex 74.3 needed to be clarified and, if necessary, adapted to current circumstances in order to obtain clarity. In this regard, they would have the matter discussed at the next meeting of the Customs Code Committee that would take place on 1st July and would report back with the result.