Commission Regulation (EC) No 1409/2004 of 2 August 2004 amending Regulation (EC) No 1159/2003 laying down detailed rules of application for the 2003/04, 2004/05 and 2005/06 marketing years for the import of cane sugar under certain tariff quotas and preferential agreements and amending Regulations (EC) No 1464/95 and (EC) No 779/96

COMMISSION REGULATION (EC) No 1409/2004

of 2 August 2004

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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 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector[(1)], and in particular Articles 22(2), 26(1), 38(6), 39(6), and the second paragraph of Article 41 thereof,

Having regard to 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[(2)], and in particular Article 1 thereof,

Whereas:

(1) The experience gained in the initial months of applying Commission Regulation (EC) No 1159/2003[(3)] suggests that improvements should be made to the common management rules laid down by that Regulation.

(2) In order to ensure compliance under better conditions with the requirements of Protocol 3 on ACP (African, Caribbean and Pacific States) sugar attached to Annex V to the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000[(4)] and the Agreement between the European Economic Community and the Republic of India on cane sugar[(5)], the provisions on the rate of the security linked to the licences and on the starting date of the delivery period must be amended.

(3) In order to manage effectively imports under the quotas or agreements in question, a mechanism must be introduced to encourage operators to return unused licences to the issuer quickly, so that unused quantities can be reutilised.

(4) Provision must also be made for weekly measures that enable the Commission to compile data on the licences issued and to inform the Member States and operators concerned of the situation regarding each quota and delivery obligation.

(5) Regulation (EC) No 1159/2003 should therefore be amended.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1409/2004. (See end of Document for details)*

(6) 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 1159/2003 is hereby amended as follows:

1. in Article 2 the following point (k) is added:

(k) "working day", a working day at the Commission;

2. Article 4 is amended as follows:

(a) paragraph 2 is replaced by the following:

2. The security for the licences shall be, per 100 kg of the quantity of sugar shown in box 17 of the licence,

— 0,30 EUR for special preferential sugar and CXL concessions sugar,

— 2 EUR for preferential ACP-India sugar.;

(b) in paragraph 3, the second subparagraph is replaced by the following:

Notwithstanding the first subparagraph, where the limit on the quantity of ACP-India preferential sugar that must be delivered in a given delivery period is reached in relation to one of the exporting countries, the period during which import licence applications for the subsequent delivery period may be presented in relation to that country shall start eight weeks before the first day of the marketing year concerned.;

(c) the following paragraphs 5 and 6 are added:

5. By way of derogation from Article 35(2) of Regulation (EC) No 1291/2000:

a if the licence is returned to the issuing body in the first 60 days of its validity, the security forfeit shall be reduced by 50 %;

b if the licence is returned to the issuing body between the 61st day of its validity and the 15th day following the end of its validity, the security forfeit shall be reduced by 25 %.

6 Notwithstanding the quantity limitations on delivery obligations laid down in Article 9 and on quotas as laid down in Articles 16 and 22, the quantities set out in the licences returned in accordance with paragraph 5 may be reallocated. When notifying the weekly quantity referred to in Article 5(1), the Member States shall simultaneously notify the Commission of the quantities for which licences have been returned since the date of their previous notification to this effect.

3. Article 5 is replaced by the following:

Article 5

1 Import licence applications may be presented each week from Monday to Friday. The application must indicate the marketing year or delivery period to which it relates. No later than the first working day of the following week Member States shall