Commission Regulation (EC) No 1159/2003 of 30 June 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 1159/2003

of 30 June 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

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)], as amended by Commission Regulation (EC) No 680/2002[(2)], and in particular Article 22(2), Article 26(1), Article 38(6), Article 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[(3)], and in particular Article 1 thereof,

Whereas:

(1) Under Article 1(1) of Protocol 3 on ACP sugar (hereinafter referred to as the ACP Protocol) attached to Annex V to the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000[(4)] (hereinafter referred to as the ACP-EC Partnership Agreement), and Article 1(1) of the Agreement between the European Economic Community and the Republic of India on cane sugar[(5)] (hereinafter referred to as the Agreement with India), the Community undertakes to purchase and import, at guaranteed prices, specific quantities of cane sugar which originate in the ACP States and India respectively and which those States undertake to deliver to it.

(2) Article 39(1) of Regulation (EC) No 1260/2001 provides that during the 2001/02 to 2005/06 marketing years, in order to ensure adequate supplies to Community refineries, a special reduced rate of duty will be levied on imports of raw cane sugar originating in States with which the Community has concluded supply agreements on preferential terms. For the moment such agreements have been concluded, by Council Decision 2001/870/EC[(6)], with the African, Caribbean and Pacific States (ACP countries) which are parties to the ACP Protocol on the one hand and with India on the other.

(3) In the wake of the accession of Austria, Finland and Sweden, and in the context of the conclusion of the negotiations under Article XXIV of the General Agreement on Tariffs and Trade (GATT), the Community undertook to import from third countries, from 1

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1159/2003. (See end of Document for details)*

January 1996, a quantity of raw cane sugar for refining, at a rate of duty of EUR 98 per tonne.

(4) Experience gained in applying Commission Regulation (EEC) No 2782/76 of 17 November 1976 laying down detailed implementing rules for the importation of preferential sugar[7], as last amended by Regulation (EC) No 2665/98[8], Commission Regulation (EC) No 2513/2001 of 20 December 2001 laying down detailed rules of application for the import of raw cane sugar for refining under preferential agreements on tariff quotas[9] and Commission Regulation (EC) No 1507/96 of 29 July 1996 opening and providing for the administration of certain tariff import quotas for the supply of raw cane sugar to Community refineries[10], as last amended by Regulation (EC) No 1250/97[11], show that it is appropriate to adopt common detailed rules for the opening and administration of imports under the quotas or agreements in question. Those Regulations should therefore be repealed and replaced by a single act.

(5) The general rules relating to import licences, laid down by Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products[12], as last amended by Regulation (EC) No 325/2003[13], and the special rules applicable to the sugar sector laid down by Commission Regulation (EC) No 1464/95[14], as last amended by Regulation (EC) No 995/2002[15], must apply. In order to facilitate the management of imports under this Regulation and ensure that the annual limits are observed, detailed rules should be laid down relating to import licences for raw sugar, expressed as white sugar equivalent.

(6) Since the Council, when fixing the overall tariff quotas referred to in Article 39 of Regulation (EC) No 1260/2001 and Article 1 of Regulation (EC) No 1095/96, made no provision for an overrun of those quantities, the full rate of duty under the common customs tariff must apply to all the quantities, converted into white sugar equivalent, imported over and above those shown on the import licence. In order to prevent excessive imports into the Community of raw sugar from the least developed countries, provisions should be adopted to ensure that the quantities of sugar imported are in fact imported and refined before the end of the marketing year concerned or before a date set by the Member State.

(7) In view of the maximum refining needs set for each Member State and the need to ensure the best possible monitoring of the allocation of quantities of raw sugar to be imported, provision should be made for import licences to be issued and transferred only to refiners in respect of imports under the tariff quotas referred to in Article 39 of Regulation (EC) No 1260/2001 and Article 1 of Regulation (EC) No 1095/96.

(8) Given that unforeseeable delays may occur between the loading of a consignment of sugar and its delivery, a certain tolerance should be permitted to take account of such delays. In addition, in the case of the preferential sugar referred to in Article 35 of Regulation (EC) No 1260/2001, covered according to the agreements concerned by delivery obligations and not by tariff quotas, provision should be made, in accordance with current trade practices, for a certain tolerance which will apply to the total

quantities delivered during a delivery period and on the date of commencement of that period.

(9) Article 7 of the ACP Protocol, and Article 7 of the Agreement with India lay down provisions which apply where a State fails to deliver its agreed quantity during a delivery period. In order to apply those provisions, methods need to be determined for establishing the delivery date of a consignment of preferential sugar.

(10) The provisions relating to proof of origin contained in Article 14 of Protocol 1 attached to Annex V to the ACP-EC Partnership Agreement and Article 47 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code[16], as last amended by Regulation (EC) No 444/2002[17], will apply, as appropriate, to show compliance with the provisions laid down in those regulations regarding the origin of products imported under this Regulation.

(11) In order to respect traditional patterns of imports of quantities covered by the tariff quota provided for in Article 1 of Regulation (EC) 1095/96 steps should be taken, in the light of experience gained during the period of application of Regulation (EC) No 1057/96, to allocate the quota of 85 463 tonnes among countries of origin from 1 July 2003 using the same distribution key.

(12) To ensure efficient management of preferential imports under this Regulation, measures need to be adopted making it possible for the Member States to keep records of the relevant data, and to report them to the Commission.

(13) The provisions of this Regulation as regards the granting and management of import licences for ACP-India preferential sugar replace those laid down in Article 8(1) of Commission Regulation (EC) No 779/96[18], as amended by Regulation (EC) No 995/2002, and Article 7(1) of Regulation (EC) No 1464/95. Those paragraphs must therefore be deleted, and the Regulations in question must be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

This Regulation lays down detailed rules of application for the 2003/04, 2004/05 and 2005/06 marketing years for imports of cane sugar covered by tariff quotas or preferential agreements referred to in:

(a) Article 35 of Regulation (EC) No 1260/2001;

(b) Article 39 of Regulation (EC) No 1260/2001;

(c) Article 1 of Regulation (EC) No 1095/96.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1159/2003. (See end of Document for details)*

Article 2

For the purposes of this Regulation:

(a) 'refiner' means any person bringing in imports for the purpose of supplying a refinery within the meaning of the fourth subparagraph of Article 7(4) of Regulation (EC) No 1260/2001;

(b) 'ACP-India preferential sugar' means the cane sugar referred to in Article 35(1) of Regulation (EC) No 1260/2001;

(c) 'special preferential sugar' means the raw cane sugar referred to in Article 39(1) of Regulation (EC) No 1260/2001;

(d) 'CXL concessions sugar' means the raw cane sugar shown in Schedule CXL (European Communities) referred to in Article 1(1) of Regulation (EC) No 1095/96;

(e) 'ACP Protocol' means Protocol 3 on ACP sugar in Annex V to the ACP-EC Partnership Agreement;

(f) 'Agreement with India' means the Agreement between the Community and India on cane sugar;

(g) 'delivery period' means the period defined in the context of commitments regarding ACP-India preferential sugar;

(h) 'consignment' means a quantity of sugar on a specified vessel which is actually unloaded at a European port determined by the Community;

(i) '*tel quel*' weight means the weight of the sugar in the natural state;

(j) 'the degree of polarisation shown' means the actual polarimetric reading of the raw sugar imported, verified where necessary by the competent national authorities using the polarimetric method, and expressed in degrees to six decimal places**[**F1;**]**

(k) **[**F2'working day' means a working day at the Commission.**]**

Textual Amendments

F1 Substituted by 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.

F2 Inserted by 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.

Article 3

Imports under the agreements or quota arrangements referred to in Article 1 shall be subject to the presentation of an import licence issued in accordance with Regulations (EC) No 1291/2000 and (EC) No 1464/95, subject to this Regulation.

Article 4

1 Import licence applications shall be presented to the competent body in the importing Member State concerned.

Licences may be issued only within the limits of the delivery obligations referred to in Article 9 and the quotas referred to in Articles 16 and 22.

[[F1]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.**]**

3 The period during which import licence applications may be presented shall start three weeks before the first day of the marketing year concerned.

[[F1]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.**]**

4 Import licences issued following applications presented during the period referred to in the first subparagraph of paragraph 3 shall be valid from their date of issue within the meaning of Article 23(1) of Regulation (EC) No 1291/2000, or from the date of commencement of the marketing year concerned where it is later. Import licences issued following applications presented during the period referred to in the second subparagraph of paragraph 3 shall be valid from their date of issue within the meaning of Article 23(1) of Regulation (EC) No 1291/2000. Licences shall be valid to the end of the third following month in the case of ACP-India preferential sugar, or to the end of the marketing year for which they are issued in the case of special preferential sugar and CXL concessions sugar.

[[F2]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.**]**

Textual Amendments

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