COMMISSION REGULATION (EC) No 568/2005

of 14 April 2005

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

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) and 39(6) 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) Experience gained during the 2003/04 marketing year, which was the first period of application of Commission Regulation (EC) No 1159/2003 [3], has shown that the common detailed rules of application laid down by that Regulation need to be improved, in particular as regards the method of determining the quantities of the delivery obligations for ACP-India preferential sugar.

(2) To guarantee the predictability required for the smooth running of commercial transactions the Commission, before the start of the delivery period concerned, should provisionally determine the quantities of the delivery obligations in accordance with the procedure referred to in Article 42(2) of Regulation (EC) No 1260/2001.

(3) During the delivery period, once more details are known about the quantities actually delivered in the previous years, these quantities should be fixed subject to possible amendment when the exact figures are available. Without prejudice to investigations to be carried out, a method should also be adopted to process, when determining the quantities of the delivery obligations, the nominal quantities of import licences for which it has not been possible to establish the actual import into the Community.

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

(5) 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

Article 9 of Regulation (EC) No 1159/2003 is hereby replaced by the following:

'*Article 9*

1. The Commission shall determine, in accordance with the procedure referred to in Article 42(2) of Regulation (EC) No 1260/2001, the quantities of the delivery obligations for each exporting country concerned, in accordance with Articles 3 and 7 of the ACP Protocol, Articles 3 and 7 of the Agreement with India, and Articles 11 and 12 of this Regulation.

2. The quantities of the delivery obligations for a delivery period:

(a) shall be determined provisionally before 1 May preceding the period in question;

(b) shall be adopted before 1 February of the period in question;

(c) shall occasionally be adjusted during the period in question if necessary as a result of new information, in particular to resolve duly justified specific cases.

The delivery obligations taken into account for the issue of licences as referred to in Article 4 shall be equal to the quantities determined under the first paragraph hereto, adjusted, if necessary, in line with the decisions taken under Articles 3 and 7 of the ACP Protocol and of the Agreement with India.

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[1] OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16.)

[2] OJ L 146, 20.6.1996, p. 1.

[3] OJ L 162, 1.7.2003, p. 25. Regulation as last amended by Regulation (EC) No 1409/2004 (OJ L 256, 3.8.2004, p. 11).

3. The quantities of delivery obligations shall be determined in accordance with Articles 3 and 7 of the ACP Protocol, Articles 3 and 7 of the Agreement with India, and Articles 11 and 12 of this Regulation, taking into account in particular:

(a) the deliveries actually recorded over the preceding delivery periods;

(b) the quantities declared as quantities which could not be delivered, in accordance with Article 7 of the ACP Protocol and of the Agreement with India.

Where the nominal quantities for which import licences have been issued exceed the quantities of deliveries actually recorded in the previous delivery periods, without prejudice to the results of the investigations to be carried out by the competent authorities, the nominal quantities of the licences for which it has not been possible to establish the actual import into the Community shall be added to the quantities referred to in point (a) of the first paragraph.

4. The adjustments referred to in paragraph 2(c) may comprise transfers of quantities between two consecutive delivery periods provided that this does not disrupt the supply arrangements referred to in Article 39 of Regulation (EC) No 1260/2001.

5. The total for each delivery period of the quantities of the delivery obligations for the different exporting countries concerned shall be imported as preferential ACP-India sugar under the delivery obligations at zero duty.

The delivery obligation for the 2003/04, 2004/05 and 2005/06 marketing years shall bear the following serial number: "ACP-India preferential sugar": No 09.4321.'

Article 2

This Regulation shall enter into force on the third 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, 14 April 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission