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## Legislation

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## I

*(Acts whose publication is obligatory)*

REGULATION (EEC) No 3330/74 OF THE COUNCIL  
of 19 December 1974  
on the common organization of the market in sugar

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42, 43 and 227 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas the basic provisions concerning the common organization of the market in sugar have been amended many times since their adoption; whereas these provisions must again be thoroughly amended to take account, in particular, of the forthcoming expiry of the transitional provisions; whereas, therefore, it is essential to redraft the basic provisions;

Whereas the operation and development of the common market in agricultural products must be accompanied by the establishment of a common agricultural policy to include, in particular, a common organization of the agricultural markets, which may take various forms, depending on the product concerned;

Whereas, to ensure that the necessary guarantees in respect of employment and standards of living are maintained for Community growers of sugar beet and sugar cane, provision should be made for measures to stabilize the market in sugar; whereas, to this end, a target price and an intervention price for white sugar should be fixed each year for the Community area having the largest surplus; whereas derived intervention prices should be fixed each year for other Community areas, taking account

of regional price variations arising under natural conditions of price formation on the market given a normal harvest, and also of the processing stage; whereas the above objective could be attained by making provision for buying in by intervention agencies at the intervention prices; whereas, moreover, a compensation system for storage costs for sugar produced from raw materials (including molasses) of Community origin could serve the same purpose;

Whereas it is necessary to ensure that the regulation of the sugar market influences sugar beet and sugar cane production; whereas, for this reason, it is advisable to fix minimum prices which must be observed when sugar manufacturers buy beet, to lay down, while complying, *inter alia*, with rules of competition, Community outline provisions governing contractual relations between buyers and sellers of beet, and to adopt provisions appropriate to this end in respect of sugar cane producers;

Whereas the creation of a single Community market for sugar always involves, apart from a single price system, the introduction of a common trading system at the external frontiers of the Community; whereas a trading system including import levies and export refunds, combined with intervention measures also serves to stabilize the Community market by preventing, in particular, price fluctuations on the world market from affecting prices ruling within the Community; whereas, therefore, provision should be made for the charging of a levy on imports from third countries and the payment of a refund on exports to such countries which would, in either case, cover the difference between prices ruling inside and outside the Community when world market prices are lower than the Community prices;

Whereas, in addition to the above system and to the extent necessary for its proper working, provision

should be made for regulating or, when the situation on the market so requires, prohibiting the use of inward processing arrangements;

Whereas, in the event of a shortage on the world market pushing up world market prices to a level higher than that of the Community prices, or in the event of difficulties in the normal supplies to the entire Community or to one of its regions, appropriate provisions should be laid down in order to avoid in good time a situation where regional surpluses are exported to third countries while an abnormal rise in Community prices makes it impossible to continue to guarantee supplies to consumers at reasonable prices; whereas, moreover, provisions should be laid down with a view to introducing a system whereby each manufacturer must hold a minimum stock, which is one of the most effective ways to achieve this objective;

Whereas, in order to help guarantee supplies to the entire Community or to one of its regions it would seem advisable to lay down provisions to adopt under certain conditions, appropriate intervention measures;

Whereas it must be made possible for the competent authorities to keep a constant watch on movements in trade with third countries in order to enable them to assess trends thereof and, where appropriate, apply such measures provided for in this Regulation as may prove necessary; whereas, to this end, provision should be made for a system of import and export licences the issue of which is conditional on the provision of security by way of guarantees that the operation for which the licence is being requested will be carried out;

Whereas the levy system makes it possible to dispense with all other protective measures at the external frontiers of the Community; whereas, however, the common price and levy machinery may in exceptional circumstances prove defective; whereas in such cases, so as not to leave the Community market without defence against disturbances which may arise therefrom after the import barriers which existed previously have been removed, the Community should be enabled swiftly to take all necessary measures;

Whereas in recent years production in the Community as originally constituted has been maintained at an acceptable level in relation to consumption; whereas even in those regions which are least suitable for beet cultivation production has remained at levels little short of the basic quotas; whereas thanks to the existence of a measure of

competition, particularly in respect of sugar produced outside the basic quotas, there has been considerable regional specialization; whereas, because production outside the quotas has been able to develop freely, it has been able to benefit to some extent from world market prices; whereas, accordingly, the system of production quotas is likely to enable the Community to cope with surpluses as well as deficits; whereas, therefore, and in view of the new situation arising from the accession of new Member States to the Community, this system can be retained for a specified period provided that certain adjustments are made to it in the light of experience, particularly as regards the introduction of certain rules in respect of sugar produced outside the quotas;

Whereas it is desirable to maintain the other basic provisions concerning the Community guarantees in respect of prices and sales which are limited or withdrawn in the case of quantities manufactured over and above the basic quota depending on whether or not these quantities exceed a certain ceiling, and also the provisions concerning delivery contracts for sugar beet and sugar cane and the rules of the carry-forward system;

Whereas the establishment of a single market based on a common price system would be jeopardized by the granting of certain aids; whereas, therefore, the provisions of the Treaty which allow the assessment of aids granted by Member States and the prohibition of those which are incompatible with the common market should be made to apply to sugar;

Whereas, however, Italian beet and sugar production is adversely affected owing to climatic reasons and, more particularly as regards beet production, by difficulties arising from the application of modern production techniques; whereas, therefore, provision should be made for the temporary granting by Italy of adaptation aid to the producers concerned;

Whereas the transition to the system established by this Regulation must be effected as smoothly as possible; whereas, to this end, certain transitional measures may prove necessary and the same need may arise at each change-over from one marketing year to the next; whereas, therefore, provision should be made for the possibility of adopting appropriate measures;

Whereas intervention is essential if the sugar price is to be guaranteed; whereas, in view of the special importance of sugar production for the economy of the French overseas departments, provisions concerning the Guarantee Section of the European

Agricultural Guidance and Guarantee Fund must be made to apply to these departments;

Whereas the common organization of the market in sugar must, at the same time, take appropriate account of the objectives set out in Articles 39 and 110 of the Treaty;

Whereas, in order to facilitate implementation of the proposed measures, a procedure should be provided for establishing close cooperation between Member States and the Commission within a management committee;

Whereas Council Regulation No 1009/67/EEC<sup>(1)</sup> of 18 December 1967 on the common organization of the market in sugar, as last amended by Regulation (EEC) No 2476/74<sup>(2)</sup>, should be repealed,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. The common organization of the market in sugar shall comprise a price and trading system and cover the following products:

CCT heading No	Description of goods
(a) 17.01	Beet sugar and cane sugar, solid
(b) 12.04	Sugar beet, whole or sliced, fresh, dried or powdered; sugar cane
(c) 17.03	Molasses, whether or not decolourized
(d) 17.02 C to F	Other sugars (but not including lactose and glucose); sugar syrups (but not including lactose syrup and glucose syrup); artificial honey (whether or not mixed with natural honey); caramel
17.05 C	Flavoured or coloured sugars (but not including lactose and glucose) syrups (but not including lactose syrup and glucose syrup) and molasses, but not including fruit juices containing added sugar in any proportion
(e) 23.03 B 1	Beet-pulp, bagasse and other waste of sugar manufacture

2. For the purposes of this Regulation:

- 'white sugar' means sugar falling within heading No 17.01 of the Common Customs Tariff and containing, in the dry state, 99.5% or more by weight of sucrose determined by the polarimetric method,
- 'raw sugar' means sugar falling within heading No 17.01 of the Common Customs Tariff and containing, in the dry state, less than 99.5% by weight of sucrose determined by the polarimetric method.

#### TITLE I

#### Prices

#### Article 2

1. A target price for white sugar shall be fixed each year for the Community area having the largest surplus. This target price shall be valid for white sugar of a standard quality, unpacked, ex-factory, loaded on to the means of transport chosen by the purchaser.

2. Before 1 August of each year the target price valid for the sugar year beginning on 1 July of the following calendar year shall be fixed in accordance with the procedure laid down in Article 43 (2) of the Treaty.

The same procedure shall be followed to determine the following:

- the standard quality for white sugar and,
- at the same time as the target price, the Community area having the largest surplus.

#### Article 3

1. An intervention price for white sugar shall be fixed each year for the Community area having the largest surplus.

2. Derived intervention prices shall be fixed for other areas, taking account of the regional variations which, given a normal harvest and free movement of sugar, might be expected to occur in the price of sugar under natural conditions of price formation.

3. The intervention prices referred to in paragraphs 1 and 2 shall be valid for white sugar of the standard quality to which the target price applies, unpacked, ex-factory, loaded on to the means of transport chosen by the purchaser.

4. The derived intervention price for the French overseas departments shall, however, be valid for sugar fob and stowed aboard a seagoing vessel at the port of embarkation.

<sup>(1)</sup> OJ No 308, 18. 12. 1967, p. 1.

<sup>(2)</sup> OJ No L 264, 1. 10. 1974, p. 70.

For those departments, intervention prices shall also be fixed for raw sugar of a standard quality. These prices shall be derived from the intervention prices for white sugar fixed for those departments, allowance being made for a uniform processing margin and a standard yield.

5. The intervention price for the area having the largest surplus shall be fixed at the same time as the target price in accordance with the procedure laid down in Article 43 (2) of the Treaty.

6. The Council, acting by a qualified majority on a proposal from the Commission, shall determine the following:

- the standard quality for raw sugar and,
- before 1 August of each year for the following marketing year, the areas referred to in paragraph 2 and the derived intervention prices valid for those areas.

The derived prices fixed for any given marketing year for the French departments of Guadeloupe and Martinique shall apply to their sugar production during the calendar year in which that marketing year begins.

#### Article 4

1. Each year, for each beet-sugar producing area for which an intervention price is fixed:

- a minimum price for beet shall be fixed in accordance with paragraphs 2, 3 and 4,
- a minimum price for beet outside the basic quota shall be fixed in accordance with Article 28.

These prices shall apply to a specified delivery stage and a specified standard quality.

2. The minimum price for beet shall be established on the basis of the intervention price for white sugar in the area in question and of fixed values for the Community representing:

- the processing margin,
- the yield,
- undertakings' receipts from sales of molasses and,
- where appropriate, costs incurred in delivering beet to undertakings.

3. At the same time as the target price is fixed:

- the minimum price for beet referred to in the first indent of paragraph 1 for the Community area having the largest surplus shall be fixed, and
- the delivery stage and standard quality for beet shall be determined in accordance with the procedure laid down in Article 43 (2) of the Treaty.

4. The Council, acting by a qualified majority on a proposal from the Commission, shall fix, at the same time as the derived intervention prices, the minimum price for beet referred to in the first indent of paragraph 1 for each of the other areas.

#### Article 5

1. Subject to Article 29 and the provisions adopted pursuant to Article 31 (3), sugar manufacturers buying beet:

- (a) suitable for processing into sugar, and
- (b) intended for processing into sugar,

shall be required to pay at least a minimum price for sugar beet, adjusted by price increases or reductions to allow for deviations from the standard quality.

2. The minimum price referred to in paragraph 1 shall correspond to:

- (a) the minimum price for beet, in the case of beet to be processed into the sugar covered by Article 30 (1) (a);
- (b) the minimum price for beet outside the basic quota, in the case of beet to be processed into the sugar covered by Article 30 (1) (b).

3. Detailed rules for the application of this Article shall be adopted and the price increases and reductions fixed in accordance with the procedure laid down in Article 36.

#### Article 6

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt outline provisions in respect of the general conditions governing purchase, delivery, acceptance and payment to which agreements within the trade at Community, regional or local level and contracts concluded between buyers and sellers of beet must conform.

#### Article 7

1. Conditions for purchasing sugar cane shall be governed by agreements within the trade between sugar-cane producers and sugar manufacturers.

2. Where no agreements within the trade exist, conditions of purchase, and in particular, the minimum proportion of the intervention price for cane sugar to be paid by sugar manufacturers to sellers of sugar cane, shall be determined in accordance with the procedure laid down in Article 36.

#### Article 8

1. Subject to Article 31 (2), storage costs for white sugar, raw sugar and certain syrups produced prior to the crystallizing stage, manufactured from beet or cane harvested in the Community, shall be reimbursed at a flat rate by the Member States.

Member States shall charge a levy on each sugar manufacturer:

- per unit of weight of sugar produced, and
- per unit of weight of the syrups referred to in the preceding subparagraph and produced and marketed in the natural state.

The amount of the reimbursement shall be the same for the entire Community. The same rule shall apply to the levy.

2. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the application of paragraph 1.

The amount of the reimbursement and of the levy shall be fixed each year in accordance with the procedure laid down in Article 36. Other rules for the application of this Article shall be adopted in accordance with the same procedure.

#### Article 9

1. Throughout the marketing year intervention agencies designated by sugar-producing Member States shall be required, under conditions to be laid down in accordance with paragraphs 5 and 6, to buy in any white sugar or raw sugar offered to them which has been manufactured from beet or cane harvested in the Community.

Intervention agencies shall buy in at the intervention price valid for the area in which the sugar is located at the time of purchase. If the quality of the sugar deviates from the standard quality for which the intervention price was fixed, that price shall be adjusted by means of price increases and reductions.

2. It may be decided to grant denaturing premiums for sugar rendered unfit for human consumption.

3. Appropriate measures shall be taken in the event of difficulties arising in marketing sugar produced in the French overseas departments.

4. It may be decided to grant production refunds on the products listed in Article 1 (1) (a), and the syrups listed in Article 1 (1) (d), used in the manufacture of certain products of the chemical industry.

5. The Council, acting by a qualified majority on a proposal from the Commission, shall determine the following:

- general rules for the application of the above paragraphs,
- the intervention prices for raw beet sugar,
- the products of the chemical industry referred to in paragraph 4.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36 and shall deal in particular with the following:

- the minimum quality and quantity requirements on intervention,
- the scales of price increases and reductions applicable on intervention,
- procedures and conditions for taking-over by intervention agencies,
- conditions for granting denaturing premiums and the amount of such premiums,
- conditions for granting production refunds and the amount of such refunds.

#### Article 10

1. In order to help guarantee supplies to the entire Community or to one of its regions, the Council, acting by a qualified majority on a proposal from the Commission, shall decide upon the conditions under which special intervention measures may be taken where Article 17 is applied.

However, such measures may not result in Community sugar manufacturers being obliged to sell sugar to intervention agencies.

2. The nature and application of such intervention measures shall be decided upon in accordance with the procedure laid down in Article 36.

*Article 11*

1. Intervention agencies may only sell sugar at a price which is higher than the intervention price valid for the area in which sugar is stored.

It may, however, be decided that the intervention agencies should sell sugar at a price equal to or less than the intervention price in question if the sugar is intended:

- for animal feeding, or
- for export, either in the natural state or following processing into the products listed in Annex II to the Treaty or into the goods listed in Annex I to this Regulation.

2. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the sale of products which have been subject to intervention measures.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.

## TITLE II

## Trade with third countries

*Article 12*

1. Imports or exports into or out of the Community of the products listed in Article 1 (1) (a), (b), (c) and (d) shall be made conditional upon the submission of an import or export licence issued by Member States to any applicant irrespective of the place of his establishment in the Community.

Where the levy or refund is fixed in advance, the advance fixing shall be noted on the licence, which serves as a supporting document for such advance fixing.

The licence shall be valid throughout the Community.

The issue of a licence shall be conditional on the lodging of a deposit guaranteeing that importation or exportation will be effected during the period of validity of the licence; this deposit shall be forfeited in whole or in part if the transaction is not effected, or is only partially effected, within that period.

2. The system described in this Article may be extended to the products listed in Article 1 (1) (e) in accordance with the procedure laid down in Article 36. The period of validity of licences and other detailed rules for the application of this Article,

which may include a time limit for the issue of licences, shall be adopted in accordance with the same procedure.

*Article 13*

1. Each year a Community threshold price shall be fixed for white sugar, raw sugar and molasses.

2. The threshold price for white sugar shall be the same as the target price for the Community area having the largest surplus plus charges, calculated at a flat rate, for transport from that area to the most distant deficit area in the Community. It shall apply to the same standard quality as the target price.

3. The threshold price for raw sugar shall be derived from the threshold price for white sugar, taking account of a standard processing margin and a standard yield. It shall apply to the same standard quality as the intervention prices for raw sugar.

4. The threshold price for molasses shall be fixed, so that receipts from sales of molasses may reach the level of undertakings' receipts which are taken into account pursuant to Article 4 when minimum prices for beet are being fixed. It shall apply to a standard quality.

5. The Council, acting by a qualifying majority on a proposal from the Commission, shall fix the threshold prices at the same time as the derived intervention prices.

6. The standard quality for molasses shall be determined in accordance with the procedure laid down in Article 36.

*Article 14*

1. A cif price shall be calculated for a Community frontier crossing point for white sugar, raw sugar and molasses. This price shall be calculated on the basis of the most favourable purchasing opportunities for each product on the world market, based on quotations or prices on that market, corrected to allow for any deviations from the standard quality for which the threshold price is fixed.

2. Where free quotations on the world market are not a determining factor for the offer price and where that price is lower than world market prices, a special

cif price calculated on the basis of the offer price shall be substituted, solely in respect of the imports in question, for the cif price.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall determine the frontier crossing point concerned.

4. Detailed rules for calculating the cif prices shall be adopted in accordance with the procedure laid down in Article 36. The corrective amounts referred to in paragraph 1 shall be fixed in accordance with the same procedure.

#### Article 15

1. A levy shall be charged on imports of the products listed in Article 1 (1) (a), (b), (c) and (d).

2. The levy on white sugar, raw sugar and molasses shall be equal to the threshold price less the cif price.

3. The levy on raw sugar shall, where appropriate, be adjusted according to the yield. The levy on white sugar shall be charged on imports of raw sugar for purposes other than refining if that levy is higher than the levy applicable to raw sugar. If the levy on white sugar is higher than the levy on raw sugar, raw sugar for refining shall be subject to customs control or to an administrative inspection offering equivalent guarantees.

4. The levy of the products listed in Article 1 (1) (b) shall be calculated as a flat rate on the basis of the sucrose content of each of these products and the levy on white sugar.

For purposes other than the manufacture of sugar, partial exemption from the import levy may be allowed as a temporary measure in special instances in accordance with the procedures laid down in Article 36.

5. The levy on the products listed in Article 1 (1) (d) shall be calculated, where appropriate, as a flat rate on the basis of the sucrose content (including other sugars expressed as sucrose) of the product concerned and the levy on white sugar.

The levies applicable to maple sugar and maple syrup falling within heading No 17.02 of the Common Customs Tariff shall, however, be limited to the amount resulting from application of the duty bound within GATT.

6. Detailed rules for the application of this Article, including the margin within which variations in the factors used for calculating the levy do not require any adjustment of the levy, shall be adopted in accordance with the procedure laid down in Article 36.

7. The levies referred to in this Article shall be fixed by the Commission.

#### Article 16

1. The levy to be charged shall be that applicable on the day of importation.

2. The levy may, however, be fixed in advance for imports of the products listed in Article 1 (1) (a) and (c).

In that event, the levy applicable on the day on which the application for the licence is lodged, adjusted on the basis of the threshold price in force on the day of importation, shall be applied to imports to be effected during the validity of the licence, provided that the party concerned so requests when applying for the licence and, in any case, before 1 p.m. Any premium to be added to the levy may be fixed at the same time as the levy.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the application of this Article; it shall, in particular, decide upon the conditions under which advance fixing takes place and also upon the rules for fixing premiums.

4. Where the conditions referred to in paragraph 3 exist, a decision to apply the system provided for in paragraph 2 shall be taken in accordance with the procedure laid down in Article 36. Once these conditions no longer obtain, the measure shall be repealed in accordance with the same procedure.

It may be decided in accordance with the same procedure to apply the system provided for in paragraph 2 in whole or in part to each of the products listed in Article 1 (1) (d).

5. Detailed rules for advance fixing shall be adopted in accordance with the procedure laid down in Article 36.

6. Premiums shall be fixed by the Commission.

7. When examination of the market situation shows that there are difficulties due to the application of the provisions concerning the advance fixing of the levy or export refund, or that such difficulties may occur, a decision may be taken, in accordance with the procedure laid down in Article 36 to suspend the application of these provisions for the period strictly necessary.



In cases of extreme urgency, the Commission may, after examining the situation, decide on the basis of all the information available to it to suspend advance fixing for a maximum of three working days. Applications for certificates accompanied by applications for advance fixing lodged during the period of suspension shall be rejected.

#### Article 17

1. Where the entire Community or any region thereof can no longer be supplied with sugar at prices within the limit of the threshold price, provision may be made for charging a levy on exports of the product in question. This levy must be introduced when the cif price for white sugar or raw sugar is higher than the corresponding threshold price.

Save as otherwise provided by the Council in accordance with the procedure laid down in paragraph 3, the levy to be charged shall be that applicable on the day of exportation.

2. Where the cif price for white sugar or raw sugar is higher than the threshold price, it may be decided to grant a subsidy for imports of the product in question.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the application of paragraphs 1 and 2.

4. Provisions corresponding to those of paragraph 1 and to the rules for its application may be adopted for the products listed in Article 1 (1) (b), (c) and (d) in accordance with the procedure laid down in Article 36.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.

6. The levies resulting from the application of this Article shall be fixed by the Commission.

#### Article 18

1. A system of minimum stocks shall be established in order to ensure normal supplies to the entire Community or to one of its regions.

This minimum stock shall, in principle, be equal to 10% of the basic quota of each undertaking or to 10% of an undertaking's production, where its production is smaller than its basic quota.

2. The costs incurred in maintaining the minimum stock shall be taken into account when fixing the sugar prices.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt implementing provisions for this Article before 1 October 1975.

#### Article 19

1. To the extent necessary to enable the products listed in Article 1 (1) (a), (c) and (d) to be exported in the natural state, or in the form of goods listed in Annex I to this Regulation, on the basis of quotations or prices for the products listed in Article 1 (1) (a) and (c) on the world market, the difference between those quotations or prices and prices within the Community may be covered by an export refund.

2. The refund shall be the same for the entire Community. It may be varied according to destination.

The refund shall be granted on the request of the party concerned.

The refund for raw sugar may not exceed the refund for white sugar.

When the refund is being fixed, particular account shall be taken of the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to non-member countries and the use of the products of such countries brought in under inward processing arrangements.

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for granting refunds, for fixing the amount of such refunds, and for fixing such refunds in advance.

Refunds shall be fixed at regular intervals in accordance with the procedure laid down in Article 36. Where necessary, the Commission may, at the request of a Member State or on its own initiative, alter the refunds in the intervening period.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules applicable to refunds where these are awarded by tender.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.

5. When examination of the market situation shows that there are difficulties due to the application of the provisions concerning the advance fixing of the

refund, or that such difficulties may occur, a decision may be taken, in accordance with the procedure laid down in Article 36, to suspend the application of these provisions for the period strictly necessary.

In cases of extreme urgency, the Commission may, after examining the situation, decide on the basis of all the information available to it to suspend advance fixing for a maximum of three working days. Applications for certificates accompanied by applications for advance fixing lodged during the period of suspension shall be rejected.

#### Article 20

To the extent necessary for the proper functioning of the common organization of the market in sugar, the Council, acting by a qualified majority on a proposal from the Commission, may prohibit, in whole or in part, the use of inward processing arrangements in respect of:

- the products listed in Article 1 (1) which are intended for the manufacture of the products listed in Article 1 (1) (d);
- and, in special instances, the products listed in Article 1 (1) which are intended for the manufacture of the goods listed in Annex I.

#### Article 21

1. The general rules for the interpretation of the Common Customs Tariff and the special rules for its application shall apply to the tariff classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided in this Regulation or where derogation therefrom is decided upon by the Council acting by a qualified majority on a proposal from the Commission, the following shall be prohibited:

- the levying of any customs duty on the products listed in Article 1 (1) (a) to (d),
- the levying of any charge having an effect equivalent to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

The restriction of import or export licences to a specified category of those entitled to receive them shall be one of the measures considered as having an effect equivalent to a quantitative restriction.

#### Article 22

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 (1) experiences or is threatened with serious disturbances which are likely to endanger the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased to exist.

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt detailed rules for the application of this paragraph and define the cases in which and the limits within which Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the measures shall be communicated to the Member States and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within 24 hours following receipt of the request.

3. The measures decided upon by the Commission may be referred to the Council by any Member State within a period of three working days following the day on which they were communicated. The Council shall meet without delay. Acting by a qualified majority, it may either amend or repeal the measures in question.

### TITLE III

#### Quota arrangements

#### Article 23

1. Articles 24 to 31 shall apply in the 1975/76 marketing year to the 1979/80 marketing year inclusive.

2. The arrangements applicable from 1 July 1980 shall be adopted by the Council before 1 January 1980 in accordance with the procedure laid down in Article 43 (2) of the Treaty.

#### Article 24

1. Member States shall allot a basic quota to each undertaking which during the 1974/75 marketing year used up its basic quota.

2. Without prejudice to the provisions adopted pursuant to paragraph 3 or 4, and taking into account, where appropriate, the second subparagraph, this basic quota shall be established by multiplying the average annual sugar output of the undertaking concerned, considered to be such pursuant to Regulation No 1009/67/EEC, during the 1968/69 to 1972/73 marketing years, hereinafter called the 'reference output', by a coefficient expressing the ratio between the basic quantity of the Member State or of one of its regions referred to in (c) of the fourth subparagraph below and the total reference output of the undertakings situated in that State or in one of the said regions.

Where the reference output of an undertaking is less than its basic quota for the 1974/75 marketing year, the quota shall be substituted for the reference output.

However, if the total reference output of all undertakings in a Member State is less than the basic quantity laid down by Regulation No 1009/67/EEC, the Member State concerned may allocate to each undertaking a basic quota different from that resulting from the application of the preceding subparagraphs where this is justified by the trend in the output figures of the undertaking concerned during the 1968/69 to 1974/75 marketing years. This basic quota may not be lower than the volume of output achieved by the undertaking in the 1974/75 marketing year.

The basic quantities shall be as follows:

- (a) Denmark  
328 000 metric tons of white sugar
- (b) Germany  
1 990 000 metric tons of white sugar
- (c) France  
2 996 000 metric tons of white sugar
  - Metropolitan France  
2 530 000 metric tons of white sugar
  - French overseas departments  
446 000 metric tons of white sugar
- (d) Ireland  
182 000 metric tons of white sugar
- (e) Italy  
1 230 000 metric tons of white sugar
- (f) Netherlands  
690 000 metric tons of white sugar
- (g) BLEU  
680 000 metric tons of white sugar
- (h) United Kingdom  
1 040 000 metric tons of white sugar

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt the general rules for the application of this Article and any derogations therefrom.

4. Should detailed rules for the application of this Article prove necessary, they shall be adopted in accordance with the procedure laid down in Article 36.

#### Article 25

1. Each undertaking for which a basic quota has been fixed may be allotted a maximum quota equal to its basic quota multiplied by a coefficient.

For the 1976/77 marketing year the maximum quota allotted to an undertaking shall not be less than the volume of its output up to the limit of its quotas for the 1975/76 marketing year.

2. For the 1975/76 marketing year the coefficient referred to in the first subparagraph of paragraph 1 shall be 1.45.

The coefficient for the 1976/77 to 1979/80 marketing years shall be fixed at the same time as the target price in accordance with the procedure laid down in Article 43 (2) of the Treaty, taking account of the trend of production from the point of view of specialization and marketing opportunities.

#### Article 26

1. Subject to Article 31, and paragraphs 2 and 3 of this Article, the quantity of sugar produced outside the maximum quota fixed for an undertaking in any given marketing year may not be disposed of on the internal market and must be exported in the natural state before 1 January following the end of the marketing year in question.

2. Articles 8, 9, 17 and 19 shall not apply to the quantity referred to in paragraph 1 which is not carried forward to the following marketing year pursuant to Article 31.

Exceptionally, however, in so far as necessary to guarantee the Community's sugar supplies it may be decided that Article 17 shall be applicable. In this event, it shall be recorded at the same time that the entire quantity of sugar in question may finally be disposed of on the internal market without the amount laid down in paragraph 3 being levied.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36. These rules shall provide in particular for the levying of a charge on the quantity of sugar referred to in the first subparagraph of paragraph 1, if disposed of on the internal market or not exported in the natural state before the date given in paragraph 1.

*Article 27*

1. Subject to Article 31, Member States shall impose a production levy on manufacturers of sugar which is outside the basic quota but within the maximum quota.

2. The production levy shall be calculated per unit of weight by dividing total losses incurred in marketing the quantity produced in the Community outside the guaranteed quantity by the sum of the quantities produced outside the basic quota by Community undertakings. The guaranteed quantity shall be equal to human consumption in the Community, expressed as a quantity of white sugar, during a period to be determined, less the quantity, expressed as white sugar, imported on preferential terms during the same period from the developing countries referred to in Protocol No 22 to the Act of Accession, the countries and territories mentioned in Article 118 of that Act and India.

The quantity guaranteed may not, however, be less than the sum of the basic quotas.

When making the calculation referred to in the first subparagraph:

- the total losses mentioned in that subparagraph shall be reduced by the amount of the export levies,
- quantities outside the maximum quotas and quantities of sugar carried forward to the next marketing year pursuant to Article 31 shall be ignored.

3. The production levy may not, however, exceed that amount, which shall not be higher than 30% of the intervention price.

4. If the production levy is lower than the maximum amount referred to in paragraph 3, sugar manufacturers shall be required to pay beet sellers the difference between the maximum amount of the production levy and the final amount of this levy, up to a percentage to be determined.

The amount to be paid per metric ton of beet shall be fixed for the standard quality.

The price increases and reductions referred to in Article 5 shall apply to this amount.

5. Sugar manufacturers may require cane sellers to reimburse the production levy in respect of a quantity of cane corresponding to the quantity of sugar on which the production levy is charged, up to a percentage to be determined.

6. Member States shall satisfy themselves, on the basis of the information supplied by sugar manufacturers, that:

- (a) payment for beet, and
- (b) the sum of the reimbursements made by cane sellers to manufacturers

comply with the relevant Community provisions.

7. Detailed rules for the application of this Article shall be adopted, and the amount referred to in the second subparagraph of paragraph 4 shall be determined, in accordance with the procedure laid down in Article 36.

*Article 28*

The Council, acting by a qualified majority on a proposal from the Commission, shall fix, at the same time as the derived intervention prices:

- minimum prices for beet outside the basic quota for the areas referred to in Article 4 (1),
- the percentages referred to in Article 27 (4) and (5),
- the maximum amount of the production levy calculated in such a way that the minimum prices for beet outside the basic quota are observed.

*Article 29*

1. Sugar manufacturers may buy beet intended for the production of sugar outside the maximum quota fixed for the undertaking concerned at a price which is lower than the minimum prices for beet referred to in Article 4 (1).

2. However, in respect of the quantity of beet purchased corresponding to the quantity of sugar:

- disposed of on the internal market pursuant to the second subparagraph of Article 26 (2),

or

- carried forward to the following marketing year pursuant to Article 31,

the sugar manufacturers concerned shall, where appropriate, adjust the purchasing price so that it is at least equal to the minimum price referred to in the first indent of Article 4 (1).

*Article 30*

1. In contracts for the delivery of beet for the manufacture of sugar, beet shall be differentiated depending on whether the quantities of sugar to be manufactured from it are:

- (a) within the basic quota,
- (b) outside the basic quota but within the maximum quota,
- (c) outside the maximum quota.

For each undertaking, sugar manufacturers shall inform the Member State in which the undertaking concerned produces sugar, of:

- the quantities of beet referred to under (a) for which pre-sowing contracts were signed and the sugar content on which these contracts were based,
- the corresponding estimated yield.

Member States may require additional information.

2. Notwithstanding Article 5 (2) (b) and Article 29 (1), any sugar manufacturer who has not signed pre-sowing delivery contracts for a quantity of beet equal to the basic quota, at the minimum price for beet referred to in the first indent of Article 4 (1), shall be required to pay this minimum price for all beet processed into sugar in the undertaking concerned.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the application of paragraph 1.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36. As far as paragraph 2 is concerned, they shall take the carry-forward effected pursuant to Article 31 into account.

*Article 31*

1. Where Article 30 applies, each undertaking may carry forward that part of its production which is outside the basic quota, up to a maximum corresponding to 10% of the basic quota, to the following marketing year to be treated as part of that year's production.

No production may be carried forward to the 1980/81 marketing year.

2. Undertakings may carry forward part of their production to the following marketing year only if:

- they have notified the Member State concerned before 1 February of the quantity to be carried forward,
- they keep the quantity carried forward in store from 1 February to 31 January of the following year; storage costs for this period shall not be refunded under the provisions of Article 8.

As far as undertakings situated in the French departments of Guadeloupe and Martinique are concerned, however, 1 February in the first indent of the first subparagraph shall be replaced by 1 May and the period 1 February to 31 January of the following year in the second indent of the same subparagraph shall be replaced by 1 May to 30 April of the following year. If final production for the marketing year in question falls short of the estimates made when the decision to carry forward was taken, the quantity carried forward may be adjusted retroactively before 1 August of the following marketing year.

3. Provisions concerning:

- payment for beet used to manufacture the quantity of sugar carried forward,
- contributions by beet or cane sellers towards the cost of storing the quantities carried forward,
- agreement between beet or cane sellers and sugar manufacturers as a precondition for carrying forward shall be adopted by the Council acting by a qualified majority on a proposal from the Commission.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.

*Article 32*

1. Any Member State which has applied Article 31 of Regulation No 1009/67/EEC shall be free to decide that as from the 1976/77 marketing year at the earliest Article 30 is not to apply in its territory.

2. Each Member State shall, however, be free to limit the scope of the Decision referred to in paragraph 1 to specific undertakings, subject to certain conditions and in accordance with rules to be adopted by the Council acting by a qualified majority on a proposal from the Commission.

3. A Member State may only decide that Article 30 is not to apply for a fixed period. If it so decides, a special maximum quota calculated by multiplying the basic quota by a coefficient valid for the period shall be fixed for each undertaking concerned.

In this event, and if the period referred to in the preceding subparagraph covers more than one marketing year, the Member States shall fix the maximum quota for the undertaking concerned for each marketing year of the period in question, and not later than 28 February for the current marketing year, without taking Article 25 into account. The sum of the maximum quotas for the period in question for each undertaking must be equal to the special maximum quota fixed for that undertaking.

The maximum quota of an undertaking may not be higher than the maximum quota determined in accordance with the method of calculation described in Article 25 (2).

4. For the period or periods subsequent to 30 June 1976 the Council, acting by a qualified majority on a proposal from the Commission, shall determine:

- the length of each period for which a decision not to apply the provisions of Article 30 may be taken;
- the coefficient to be applied to the basic quota allocated to the undertaking concerned, for a marketing year still to be determined, in order to calculate a special maximum quota for the period in question.

5. If necessary, general rules for the application of paragraph 3 shall be adopted in accordance with the procedure laid down in paragraph 4.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.

#### TITLE IV

##### General provisions

###### Article 33

The requisite provisions to prevent the market in sugar being disturbed as a result of an alteration in price levels at the changeover from one marketing year to the next may be adopted in accordance with the procedure laid down in Article 36.

###### Article 34

Member States and the Commission shall communicate to each other the information necessary for implementing this Regulation. Rules for the communication and distribution of such information shall be adopted in accordance with the procedure laid down in Article 36.

###### Article 35

1. A management committee for sugar (hereinafter called 'the Committee') shall be established, consisting of representatives of Member States and presided over by a representative of the Commission.

2. Within the Committee the votes of Member States shall be weighted in accordance with Article 148 (2) of the Treaty. The Chairman shall not vote.

###### Article 36

1. Where the procedure laid down in this Article is to be followed, the Chairman shall refer the matter to the Committee either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall deliver its Opinion on such measures within a time limit to be set by the Chairman according to the urgency of the questions under consideration. An opinion shall be adopted by a majority of 41 votes.

3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall forthwith be communicated to the Council by the Commission. In that event the Commission may defer application of the measures which it has adopted for not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within one month.

###### Article 37

The Committee may consider any other question referred to it by its Chairman either on his own initiative or at the request of the representative of a Member State.

*Article 38*

1. During the 1975/76 to 1979/80 marketing years, the Republic of Italy shall be authorized to grant adaptation aid which may not exceed a total of 5.9 units of account per metric ton of beet with a 16% sugar content processed into sugar.

Aid may be granted only in respect of the quantity of beet used to manufacture a quantity of white sugar equal to the basic quantity allocated to Italy.

2. In order to contribute towards improving the economic structure of the beet and sugar sectors, a proportion of the aid may be granted to the beet processing industry. In that event, the amount may not exceed 1.46 units of account per 100 kg of white sugar manufactured from beet grown in Italy. It may be granted only in respect of a quantity of white sugar which does not exceed the basic quantity allocated to Italy.

*Article 39*

1. The provisions concerning the financing of the common agricultural policy shall apply to the products listed in Article 1 (1).

2. Article 40 (4) of the Treaty and the provisions adopted for the application of that Article shall, as far as the Guarantee Section of the European Agricultural Guidance and Guarantee Fund is concerned, apply to the French overseas departments in respect of the markets in the products listed in Article 1 (1).

*Article 40*

Goods listed in Article 1 (1) which are manufactured or obtained from products to which Article 9 (2) and Article 10 (1) of the Treaty do not apply shall not be admitted to free circulation within the Community.

*Article 41*

Save as otherwise provided in this Regulation, Articles 92, 93 and 94 of the Treaty shall apply to the

production of and trade in the products listed in Article 1 (1).

*Article 42*

This Regulation shall be applied, so that appropriate account is taken, at the same time, of the objectives set out in Articles 39 and 110 of the Treaty.

*Article 43*

Should transitional measures be necessary to facilitate transition to the system established by this Regulation, in particular if the introduction of the new system on the date provided for would give rise to substantial difficulties, such measures shall be adopted in accordance with the procedure laid down in Article 36. They shall be applicable until 30 June 1976 at the latest.

*Article 44*

1. This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

2. It shall apply with effect from 1 July 1975, with the exception of:

- Articles 6, 7, 10, 24, 25, 30 and 43, which shall apply immediately upon the entry into force of this Regulation for the 1974/75 marketing year,
- and the second subparagraph of Article 3 (6), which shall apply with effect from 1 January 1975.

3. Regulation No 1009/67/EEC shall be repealed with effect from 30 June 1975.

4. Citations and references to Regulation No 1009/67/EEC contained in the Acts adopted in implementation of the latter must be understood as references to this Regulation.

Citations and references to Articles of the said Regulation are to be read in conjunction with the table of equivalence given in Annex II.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 December 1974.

*For the Council*

*The President*

J. P. FOURCADE

## ANNEX I

CCT heading No	Description of goods
17.04	Sugar confectionery, not containing cocoa: B. Chewing gum C. White chocolate D. Other
18.06	Chocolate and other food preparations containing cocoa
19.02	Preparations of flour, meal, starch of malt extract, of a kind used as infant food or for dietic or culinary purposes, containing less than 50 % by weight of cocoa
19.08	Pastry, biscuits, cakes and other fine bakers' wares, whether or not containing cocoa in any proportion
21.06	Natural yeasts (active or inactive); prepared baking powders: A. Active natural yeasts: II. Bakers' yeasts
21.07	Food preparations not elsewhere specified or included
22.02	Lemonade, flavoured spa waters and flavoured aerated waters, and other non-alcoholic beverages, not including fruit and vegetable juices falling within heading No 20.07
22.06	Vermouths, and other wines of fresh grapes flavoured with aromatic extracts
22.09	Spirits (other than those of heading No 22.08); liqueurs and other spirituous beverages; compound alcoholic preparations (known as 'concentrated extracts') for the manufacture of beverages: C. Spirituous beverages: V. Other
29.04	Acyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives: C. Polyhydric alcohols: II. Mannitol III. Sorbitol
29.10	Acetals and hemiacetals and single or complex oxygen-function acetals and hemiacetals, and their halogenated, sulphonated, nitrated or nitrosated derivatives: ex B. Other: — Methyl glucosides



CCT heading No	Description of goods
29.14	<p>Monocarboxylic acids and their anhydrides, halides, peroxides and peracids, and their halogenated, sulphonated, nitrated or nitrosated derivatives:</p> <p>ex A. Saturated acyclic monocarboxylic acids: — Mannitol esters and sorbitol esters</p> <p>ex B. Unsaturated acyclic monocarboxylic acids: — Mannitol esters and sorbitol esters</p>
29.15	<p>Polycarboxylic acids and their anhydrides, halides, peroxides and peracids, and their halogenated, sulphonated, nitrated or nitrosated derivatives:</p> <p>A. Acyclic polycarboxylic acids: ex V. Other — Itaconic acid and its salts and esters</p>
29.16	<p>Carboxylic acids with alcohol, phenol, aldehyde or ketone function and other single or complex oxygen-function carboxylic acids and their anhydrides, halides, peroxides and peracids, and their halogenated, sulphonated, nitrated or nitrosated derivatives:</p> <p>A. Carboxylic acids with alcohol function: I. Lactic acid and its salts and esters IV. Citric acid and its salts and esters ex VIII. Other: — Glyceric acid, glycollic acid, saccharonic acid, isosaccharonic acid, heptasaccharic acid and their salts and esters</p>
29.35	<p>Heterocyclic compounds; nucleic acids:</p> <p>ex Q. Other: — Anhydric compounds of mannitol or sorbitol, excluding maltol and isomaltol</p>
29.43	<p>Sugars, chemically pure, other than sucrose and lactose; sugar ethers and sugar esters, and their salts, other than products of heading Nos 29.39, 29.41 and 29.42:</p> <p>ex B. Other: — Sorbose and its salts and esters</p>
29.44	<p>Antibiotics: A. Penicillins</p>
38.19	<p>Chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included; residual products of the chemical or allied industries, not elsewhere specified or included:</p> <p>Q. Foundry core binders based on synthetic resins</p> <p>ex T. Other: — Sorbitol cracking products</p>

## ANNEX II

## TABLE OF EQUIVALENCE

Regulation No 1009/67/EEC	This Regulation
Article 9, § 5	Article 9, § 3
Article 9, § 6	Article 9, § 4
Article 9, § 7	Article 9, § 5
Article 9, § 8	Article 9, § 6
Article 10	Article 11
Article 11	Article 12
Article 12	Article 13
Article 13	Article 14
Article 14, § 1, 1st sentence	Article 15, § 1
Article 14, § 2	Article 15, § 2
Article 14, § 3	Article 15, § 3
Article 14, § 4	Article 15, § 4
Article 14, § 5	Article 15, § 5
Article 14, § 6	Article 15, § 6
Article 14, § 7	Article 15, § 7
Article 15	Article 16
Article 16, § 1, subparagraph 1	Article 17, § 1, subparagraph 1, 2nd sentence
Article 16, § 1, subparagraph 2	Article 17, § 1, subparagraph 1, 1st sentence
Article 16, § 1, subparagraph 3	Article 17, § 1, subparagraph 2
Article 16, § 2	Article 17, § 2
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Article 16, § 4	Article 17, § 4
Article 16, § 5, subparagraph 1	Article 17, § 5
Article 16, § 5, subparagraph 2	Article 17, § 6
Article 17	Article 19
Article 19, § 1	Article 20
Article 20	Article 21
Article 21	Article 22
Article 25, § 1, subparagraph 1	Article 26, § 1
Article 25, § 2	Article 26, § 2
Article 25, § 3	Article 26, § 3
Article 27, § 3	Article 27, § 3, 1st sentence
Article 31, § 1 and 2	Article 32, § 1 and 2
Article 31, § 3, subparagraphs 1 to 3	Article 32, § 3
Article 31, § 4 to 6	Article 32, § 4 to 6
Article 32	Article 31
Article 35, § 2	Article 40
Article 36	Article 41
Article 37, § 2	Article 33
Article 38	Article 34
Article 39	Article 35
Article 40	Article 36
Article 41	Article 37
Article 43, § 1 and 2	Article 39
Article 44	Article 42
Article 45, § 1, 1st sentence	Article 43

## REGULATION (EEC) No 3331/74 OF THE COUNCIL

of 19 December 1974

on the allocation and alteration of the basic quotas for sugar

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 3330/74 <sup>(1)</sup> of 19 December 1974 on the common organization of the market in sugar, and in particular Article 24 (3) thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas Article 24 (3) of Regulation (EEC) No 3330/74 lays down that the Council should adopt general rules for the application of this Article and any derogations therefrom;

Whereas it should be provided that, where an undertaking has had transferred to it in whole or in part the basic quota of another undertaking, account should be taken, in allocating the basic quota of the undertaking benefiting from this transfer, of the other undertaking's production prior to the transfer, during the 1968/69 to 1972/73 marketing years;

Whereas, in order to take account of any changes in the structure of the sugar industry or beet-growing sector, Member States should be enabled to reduce the basic quota of an undertaking by a quantity not exceeding, for the whole period from 1 July 1975 to 30 June 1980, 5% of the basic quota originally allocated; whereas, moreover, in view of its special situation in this sector, the Republic of Italy may also alter the basic quotas of the undertakings situated within its territory on the basis of restructuring plans submitted to the Commission for its opinion;

Whereas the object of the original allocation of basic quotas for individual undertakings might be jeopardized in the event of the merger or transfer of undertakings, the transfer by an undertaking of one of its factories or the closure of an undertaking; whereas, therefore, provision should be made for the alteration, by the Member States, of the basic quota of the undertakings concerned;

Whereas it is essential that alterations in the basic quotas originally fixed prevented from damaging the interests of the beet or cane growers concerned;

Whereas it is advisable that, before they are taken, measures affecting the basic quotas contemplated by a Member State in view of the maximum reduction of 5%, the merger or transfer of undertakings, the transfer of factories and the closure of an undertaking be communicated to the Commission and, where appropriate, be examined in conjunction with the other Member States and form the subject of a decision in accordance with the procedure laid down in Article 36 of Regulation (EEC) No 3330/74;

Whereas Regulation No 1027/67/EEC <sup>(2)</sup> and Regulation (EEC) No 1898/68 <sup>(3)</sup> should be repealed,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the allocation of the basic quota of an undertaking which, pursuant to Regulation (EEC) No 1898/68, has had transferred to it, in whole or in part, permanently or temporarily, the basic quota of another undertaking, the production of the undertaking whose basic quota has been transferred in whole or in part, up to the date on which the transfer took effect and during the 1968/69 to 1972/73 mar-

<sup>(1)</sup> See page 1 of this Official Journal.

<sup>(2)</sup> OJ No 313, 22. 12. 1967, p. 2.

<sup>(3)</sup> OJ No L 289, 29. 11. 1968, p. 2.

keting years, shall be regarded as part of the production of the undertaking to which the quota was transferred.

#### Article 2

1. Notwithstanding the first, second and third subparagraphs of Article 24 (2) of Regulation (EEC) No 3330/74, Member States may reduce the basic quota of each undertaking by a total amount which does not exceed, for the whole period from 1 July 1975 to 30 June 1980, 5% of the original basic quota allocated to each of them for the 1975/76 marketing year.

Member States shall allocate the quantity deducted to one or more other undertakings.

2. Notwithstanding the first, second and third subparagraphs of Article 24 (2) of Regulation (EEC) No 3330/74 and the preceding paragraph, the Republic of Italy may alter the basic quotas of undertakings within its territory in so far as is necessary for the implementation of restructuring plans for the beet and sugar sectors. These plans shall be submitted to the Commission for its opinion before 1 July 1978.

#### Article 3

Member States shall make due allowance for the interests of beet and cane growers when allocating the basic quota to an undertaking which has more than one factory.

#### Article 4

1. In the event of the merger or transfer of undertakings, the transfer of factories or the closure of an undertaking the basic quotas shall be altered as follows:

- (a) in the event of the merger of undertakings, the basic quota of the resulting undertaking shall be fixed by the Member State at a quantity equal to the sum of the basic quotas allocated to the undertakings concerned prior to their merger;
- (b) in the event of the transfer of an undertaking, the Member State shall allocate the basic quota of the transferred undertaking to the transferee undertaking; if there is more than one transferee undertaking or if, in the event of the transfer of

an undertaking, some of the beet growers join an undertaking other than the transferee, the allocation may be made on the basis of the production absorbed;

- (c) in the event of the transfer of a factory, the Member State shall reduce the basic quota of the undertaking transferring ownership of the factory and shall increase the basic quota of the undertaking or undertakings acquiring it by the quantity deducted in proportion to the production absorbed;
- (d) where an undertaking ceases to operate in circumstances other than those referred to under (a), (b) and (c), the Member State may allocate its basic quota to one or more undertakings in proportion to the production absorbed.

2. Measures in respect of basic quotas may be taken pursuant to paragraph 1 only in so far as:

- (a) the interests of the beet or cane growers concerned are protected, and
- (b) the Member State concerned considers that they are such as to improve the structure of the beet and cane production and the sugar manufacturing sectors.

3. Where a lease for a factory within the meaning of Regulation (EEC) No 1898/68 is effective during the 1974/75 marketing year, the Member State concerned may authorize the undertakings in question, at their request, to extend the lease until 30 June 1980. In such a case the Member State may transfer the quota to the undertaking which holds the lease.

#### Article 5

For the purposes of this Regulation:

- (a) 'merger of undertakings' means the consolidation into a single undertaking of two or more undertakings, each with a basic quota;
- (b) 'transfer of an undertaking' means transfer of the business of an undertaking with a basic quota to one or more undertakings;
- (c) 'transfer of a factory' means transfer of ownership of a production unit, including all the plant required to manufacture sugar, to one or more

undertakings, resulting in partial or total absorption of the production of the undertaking making the transfer.

#### Article 6

The measures referred to in Article 4 shall take effect when the merger, transfer, or closure, as the case may be, occurs:

- (a) between 1 July and 31 January of the following year, for the marketing year concurrent with that period;
- (b) between 1 February and 30 June of one and the same year, for the marketing year following that period.

#### Article 7

1. Member States shall allocate the basic quota referred to in Article 24 (1) of Regulation (EEC) No 3330/74 before 1 March 1975.

2. Where Member States apply Article 2 (1) they shall allocate the altered quota before 1 March with a view to applying it in the following marketing year. For the 1975/76 marketing year, the decision to apply Article 2 (1) must be taken before 15 March 1975.

#### Article 8

1. Measures affecting the basic quotas, which are contemplated by a Member State pursuant to Article 2 (1) and Article 4, can only be taken after four weeks, counting from the time limits for communicating the planned measures as laid down in Article 9 (1) (b) and (c) and (2) of that Article.

2. The Commission may submit comments to the Member State concerned within the period stipulated in paragraph 1.

3. If a Member State decides not to take account of these comments, it shall forthwith communicate this fact to the Commission. In that event, the measures referred to in paragraph 1 may only be taken after another period of four weeks counting from the date on which this communication was made. Within this period, it may be decided in accordance with the procedure laid down in Article 36 of Regulation (EEC) No 3330/74 that the Member State must amend the planned measures or abandon them.

#### Article 9

1. For the purpose of implementing this Regulation, Member States shall communicate to the Commission:

- (a) before 10 March 1975, a list of the basic quotas allocated pursuant to Article 24 (1) of Regulation (EEC) No 3330/74;
- (b) before 25 March 1975, the basic quotas which they contemplate altering pursuant to Article 2 (1);
- (c) before 15 March 1975, the basic quotas which they contemplate altering pursuant to Article 2 (1), with a view to applying them in the following marketing year.

2. Where they apply Article 4, Member States shall communicate to the Commission not later than 10 days following the expiry of the time limits specified in Article 7 the basic quotas which they contemplate altering.

#### Article 10

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

Regulation No 1027/67/EEC and Regulation (EEC) No 1898/68 shall be repealed with effect from 30 June 1975.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 December 1974.

*For the Council*

*The President*

J. P. FOURCADE