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## Legislation

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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

## I

*(Acts whose publication is obligatory)*

**COUNCIL REGULATION (EC) No 1260/2001  
of 19 June 2001  
on the common organisation of the markets in the sugar sector**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas:

- (1) In order to work properly, the common agricultural policy requires a common organisation of the markets in the sugar sector covering, in particular, sugar and isoglucose and insulin syrup, which are liquid substitutes for sugar.
- (2) In order to achieve the objectives of the common agricultural policy, and in particular to ensure that Community growers of sugar beet and sugar cane continue to benefit from the necessary guarantees in respect of employment and standards of living, the market in sugar should be stabilised. This objective can be attained by allowing intervention agencies to buy in sugar. For this purpose, an intervention price for white sugar should be fixed for areas having no deficit, as well as an intervention price for raw sugar, and, every year for each of the deficit areas, a derived intervention price for white sugar and, if necessary, for raw sugar. The intervention price must be fixed at a level which will ensure a fair income for sugar-beet and sugar-cane producers while taking account of the interests of consumers. Such price guarantees for sugar also benefit sugar syrups, isoglucose and insulin syrup, the prices of which are based on sugar prices. In view of the financial perspective and the budgetary rules adopted by the European Council in Berlin in March 1999, the support prices in the sugar sector should be fixed for the whole duration of the new arrangements.
- (3) The intervention price must be fixed for standard qualities of white sugar and raw sugar which should be defined. Such standard qualities should be average qualities representative of sugar produced in the Community and should be determined on the basis of criteria used by the sugar trade. It must also be possible to review the standard qualities to take account, in particular, of commercial requirements and developments in analysis techniques.

<sup>(1)</sup> OJ C 29 E, 30.1.2001, p. 315.

<sup>(2)</sup> Opinion delivered on 13 March 2001 (not yet published in the Official Journal).

<sup>(3)</sup> OJ C 116, 20.4.2001, p. 113.

- (4) The geographical situation of the French overseas departments calls for appropriate measures for the sugar produced in those departments.
- (5) So as not to interfere with the prices referred to above, intervention agencies must sell sugar at a price higher than the intervention price unless it is to be exported either without further processing or in the form of processed products, or used as animal feed. One consequence of this rule is that sugar cannot be made available to charitable organisations for use for human consumption in the Community. It should nevertheless be possible to dispose of sugar in this fashion through individual emergency aid operations intended to ensure the availability of supplies and thus representing at the same time a humanitarian operation. Such operations are effective only if rapidly implemented. The most appropriate procedure should therefore be used in such instances.
- (6) Like starch products, sugar is a commodity which can be used by the chemical industry for the manufacture of similar products. A harmonious development of the use of such commodities should be ensured. A system of production refunds should be adopted which makes it possible to expand sugar outlets beyond traditional quantities; to that end, it should henceforth be possible to make the products in question available to that industry at a reduced price.
- (7) These rules should ensure fair treatment for both manufacturers and producers of the basic products. In addition to the basic price derived from the intervention price for white sugar, undertakings' receipts from sales of molasses, which can be estimated at EUR 7,61 per 100 kg derived from the price of molasses estimated at EUR 8,21 per 100 kg, as well as the cost incurred in processing and delivering beet to factories, and on the basis of a yield which for the Community can be estimated at 130 kg of white sugar per tonne of standard-quality beet, minimum prices should therefore be fixed for A beet intended for processing into A sugar and for B beet intended for processing into B sugar, to be paid by sugar manufacturers buying beet.
- (8) Specific instruments are needed to ensure a fair balance of rights and obligations between manufacturers and growers, in particular standard Community provisions should be laid down to govern the contractual relations between buyers and sellers of beet and adequate measures adopted for the same purpose for sugar cane. The provisions relating to the normal duration and staggering of deliveries, collection centres and transport costs, reception points and the taking of samples, the return of pulp or the payment of equivalent compensation and time limits for advance payments all affect the actual price of beet received by the seller. The diversity of natural, economic and technical situations makes it very difficult to have uniform purchase terms for beet throughout the Community. Agreements within the trade exist between manufacturers or manufacturers' organisations and planters' organisations. Framework provisions should simply define the minimum guarantees required by both beet planters and the industry to ensure the smooth functioning of the sugar economy and the possibility of derogating from some rules referred to in Annex III should be kept for agreements within the trade.
- (9) The reasons which have hitherto led the Community to adopt a production quota system for sugar, isoglucose and insulin syrup currently remain valid. However, that system has been adjusted to take account of recent developments in production, to provide the Community with the instruments necessary to ensure, in a fair yet efficient way, that the producers themselves meet in full the cost of disposing of the surpluses of Community production over consumption and to comply with the Community's obligations under the Agreements resulting from the Uruguay Round of multilateral trade negotiations, hereinafter referred to as 'GATT', approved by Decision 94/800/EC <sup>(1)</sup>.

<sup>(1)</sup> OJ L 336, 23.12.1994, p. 1.

- (10) The agreement on agriculture concluded under the GATT agreements (hereinafter referred to as 'the Agreement') in particular requires the Community to gradually reduce its export support for agricultural products and in particular for sugar under guarantee of production quotas. The Agreement provides for export support to be reduced, in terms of both the quantities covered and the level of the subsidies involved, over a transitional period. As a first step in adjusting the guarantees, the difference recorded for a given marketing year between the Community's exportable volume and the amount set in the Agreement should be apportioned between sugar, isoglucose and insulin syrup according to the percentages which the quotas of each represent in the total quota set for all three products for the Community. However, such a system should apply for a limited period only and should be regarded as transitional. In view, in particular, of the financial perspective and the budgetary rules adopted by the European Council in Berlin in March 1999 and the need to take account of the progress of negotiations under the WTO, the quota system should be maintained for the 2001/2002 to 2005/2006 marketing years.
- (11) The common organisation of the markets in the sugar sector is based, firstly, on the principle that producers should bear full financial responsibility for the losses incurred each marketing year from disposing of that part of Community production under quota which is surplus to the Community's internal consumption and, secondly, on a differentiation of price guarantees for disposal reflecting the production quota allocated to each undertaking. A sugar production quota is allocated to each undertaking on the basis of its actual production during a particular reference period.
- (12) Since commitments to reduce export support were implemented during the transitional period, the basic quantities of sugar and isoglucose and the quotas for insulin syrup should be kept at their present levels, but it must be possible for the relevant guarantees to be adjusted as necessary to enable the Community to comply with its commitments under the Agreement, while taking account of the fundamental factors affecting the situation of its sugar sector. The sector's system of self-financing through production levies and the production quota regime should be maintained.
- (13) The producers should thus continue to assume financial responsibility by paying a basic production levy charged on all production of A and B sugar, which is however limited to 2 % of the intervention price for white sugar, and a B levy charged on the production of B sugar up to a limit of 37,5 % of that price. In certain circumstances, producers of isoglucose and insulin syrup also pay a proportion of those contributions. Capping the levies in the manner described above means that in some marketing years sugar production is not fully self-financing. An additional levy should be charged in those cases.
- (14) In the interests of equal treatment, the additional levy should be calculated for each undertaking on the basis of its share in the revenue generated by the production levies which it has paid for the marketing year in question. A coefficient should therefore be fixed for the Community as a whole representing the ratio for that marketing year between the total loss recorded and the total revenue generated by the production levies concerned. It is necessary to specify the conditions under which beet and cane sellers are to contribute to eliminating the outstanding loss for the marketing year concerned.
- (15) In any given marketing year, the consumption, production, importation, stock and carryover levels, and the average loss likely to be borne under the self-financing scheme, may be such that the production quotas allocated to each undertaking in the sugar sector result in an export volume exceeding that set in the Agreement. The guarantees linked to the quotas should therefore be adjusted each marketing year so that the Community can meet its commitments.
- (16) The breakdown between sugar, isoglucose and insulin syrup should be followed by a further breakdown between the Member States to take account of the guarantees linked to the quotas assigned to producing undertakings in each Member State so that those guarantees can be adjusted in a way that does not affect the existing balance of quotas and burden-sharing. A reduction coefficient for the A and B guarantees should therefore be fixed for each Member State based on the maximum contributions pertaining to those guarantees. Each Member State concerned should then make an allocation among undertakings which takes account of the guarantees arising for each undertaking from its own quotas.

- (17) The A and B quotas are affected, following a merger or transfer of undertakings, the transfer by an undertaking of one of its factories or the cessation of activities of an undertaking or of one of its factories. The conditions for adjustment by the Member States of the quotas of the undertakings in question should be established while ensuring that changes to the quotas of sugar-producing undertakings are not detrimental to the interests of the beet producers or cane producers concerned.
- (18) Given the need to allow for a certain structural adjustment of the processing industry and of beet and cane growing during the period in which these quotas are to be applied, Member States should be allowed to alter the quotas of undertakings by a maximum of 10 %. However, in view of the particular situation of the sugar sector in Spain, Italy and the French overseas departments, this limit should not be applied in those regions while restructuring plans are being implemented.
- (19) Since allocating production quotas to undertakings is a way of ensuring that producers are paid Community prices and have an outlet for their production, the interests of all the parties concerned, in particular beet and cane producers, should be taken into consideration when quotas are transferred inside production regions.
- (20) To expand the outlets for sugar and isoglucose on the Community's internal market, it should be possible to put all sugar or isoglucose intended for manufacture in the Community of products other than foodstuffs out of production, within the meaning of the quota system, under conditions to be laid down.
- (21) A Community market for sugar as for isoglucose and insulin syrup requires a common trading system at the external frontiers of the Community. A trading system including import levies and export refunds will stabilise the Community market, in particular, by preventing prices inside the Community from being affected by price fluctuations on the world market. A levy should therefore be charged on imports from third countries and a refund paid on exports to such countries to compensate for the difference between prices on the sugar market inside and outside the Community when world market prices are lower than the Community prices, and to provide a certain measure of protection for the Community industry processing isoglucose and insulin syrup.
- (22) To ensure that these trading arrangements can function properly, it must be possible to regulate or prohibit the use of inward-processing arrangements when the situation on the market so requires.
- (23) Should a shortage on the world market result in higher prices on the world market than in the Community, or should all or part of the Community be unable to obtain normal supplies, it must be possible to act in good time to avoid a situation where regional surpluses are exported to third countries while an abnormal rise in Community prices makes it impossible to continue to supply consumers at reasonable prices.
- (24) The competent authorities must be in a position to constantly monitor movements in trade with third countries so as to assess trends and apply such of the measures provided for in this Regulation as may prove necessary. To this end, there should be a system of import and export licences, to be issued only after a security has been lodged to ensure that the operation covered by a licence application is actually carried out.
- (25) The system of customs duties makes it possible to dispense with all other forms of protection at the external frontiers of the Community. However, in exceptional circumstances the prices and customs duties machinery could break down. So as not to leave the Community market unprotected against disturbances which may ensue in such cases, the Community should be able to take whatever measures are necessary without delay. Such measures must comply with the Community's obligations under the GATT Agreements. Moreover, in order to avert problems of supply to the Community market, it must be possible to suspend customs duties on certain sugar products.

- (26) The Community has made an overall examination of its refining industry. This examination has shown that if a steadier and more even flow of supplies to refineries throughout the Community is to be achieved, a clear estimate is needed of the traditional presumed maximum requirements of raw sugar for refining into white sugar in each of the Member States concerned, namely Finland, France, Portugal and the United Kingdom, using objective reference data and taking into account the quantities of sugar going for direct consumption recorded for the 1994/1995 marketing year. A special preferential arrangement for access to the Community market should therefore be introduced, allowing the refining industry to import on special terms certain quantities of raw cane sugar originating in the ACP States party to Protocol No 3 to Annex IV to the ACP-EC Partnership Agreement and in India and other States under agreements with those States. Those quantities are to be determined within the limits of the traditional presumed maximum requirements referred to above on the basis of forecast supply balances once all available raw cane and beet sugar of Community origin and preferential raw sugar and raw sugar originating in countries benefiting from tariff quotas under trade concessions granted by the Community have been refined. In order to counterbalance the Community's commitments to reduce export support, the quantities imported to cover the traditional requirements of the refining industry should be reduced.
- (27) Under Article 1 of the said Protocol and Article 1 of the Agreement between the European Economic Community and the Republic of India on cane sugar, these preferential import arrangements must be implemented within the framework of the common organisation of the market in sugar.
- (28) It is necessary to create the means for ensuring that raw cane sugar imported under the said preferential arrangements is refined under the fairest possible conditions of competition.
- (29) Sugar refining is an important activity both at world level and in the Community, particularly in refineries converting raw sugar into white sugar. From a technical point of view, refining turns sugar cane into high-quality products that can meet market requirements. Moreover, these refineries are located in areas of high consumption. The Community's port-related refining industry is therefore a valuable complement to the beet-processing industry, especially in Finland, mainland Portugal, the United Kingdom and southern and western France.
- (30) Examination of supplies to port refineries throughout the Community, suggests that special priority access should be given to raw cane sugar originating in the ACP States party to Protocol No 3 and India, under special agreements negotiated between the Community and the countries referred to in Protocol No 3 and/or other countries and based on an estimate of the Community's requirements once all available raw cane and beet sugar in the Community, preferential raw sugar and raw sugar originating in countries benefiting from tariff quotas under trade concessions granted by the Community have been refined.
- (31) Until the 2000/2001 marketing year, the refining industry received Community adjustment aid for refining preferential raw cane sugar and raw sugar from cane and beet harvested in the Community. In the light of experience, this aid should continue and provision should be made for it to be adjusted to take account of economic trends in the sugar sector, particularly manufacturing and refining margins.
- (32) Some transitional measures may prove necessary and this need may arise at each changeover from one marketing year to the next or during a single marketing year. It should therefore be possible to adopt the appropriate measures.
- (33) To facilitate implementation of this Regulation, a procedure is needed for close cooperation between Member States and the Commission within a Management Committee for Sugar.

- (34) Owing to its specific characteristics and the size of agricultural holdings, the beet industry in the south of Italy faces persistent difficulties. Beet growing in that area is essential in order to regenerate soils with a particularly high level of clay and thus to avoid a return to single-crop farming; Italy should therefore be authorised to grant the southern regions national aid over the next five marketing years in respect of the same amount and under the same conditions as for the 2000/2001 marketing year. Sugar cane production in Spain is encountering specific problems in keeping up with other crops; to enable this particular production to be maintained, Spain should be authorised to grant national aid for sugar cane production over the next five marketing years in respect of the same amount and under the same conditions as for the 2000/2001 marketing year. Beet production in Portugal, having regard to the fact that this is a new industry, faces persistent difficulties; sugar beet producers need to be encouraged to increase production in view of these difficulties; Portugal should therefore be authorised to grant national aid for beet production over the next five marketing years in respect of the same amount and under the same conditions as for the 2000/2001 marketing year. Climatic conditions make it very difficult to grow beet in Finland, which leads to considerable variability in production; consequently, Finland should be authorised to grant a flat-rate reimbursement of storage costs for carried-over C sugar and the detailed rules for such reimbursement should be determined.
- (35) In order to take account of environmental objectives, Member States should draw up and implement suitable environmental measures they consider to be appropriate concerning the use of agricultural land for the production of the products referred to in Article 1. In future, Member States may introduce measures to promote production in accordance with objective environmental criteria and remind producers of the need to comply with the legislation in force. The Member States must submit a report on the impact of national environmental measures on the agricultural production sector of the sugar sector.
- (36) Under Article 2 of Council Regulation (EEC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy <sup>(1)</sup>, the expenses incurred by the Member States in meeting obligations arising from the application of this Regulation are to be borne by the Community.
- (37) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(2)</sup>.
- (38) The support arrangements introduced by this Regulation replace the arrangements provided for by Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector <sup>(3)</sup>, which must be repealed along with Regulations (EEC) No 206/68 <sup>(4)</sup>, (EEC) No 431/68 <sup>(5)</sup>, (EEC) No 447/68 <sup>(6)</sup>, (EEC) No 2049/69 <sup>(7)</sup>, (EEC) No 793/72 <sup>(8)</sup>, (EEC) No 741/75 <sup>(9)</sup>, (EEC) No 1358/77 <sup>(10)</sup>, (EEC) No 1789/81 <sup>(11)</sup>, (EEC) No 193/82 <sup>(12)</sup>, (EEC) No 1010/86 <sup>(13)</sup> and (EEC) No 2225/86 <sup>(14)</sup> laying down the general rules for its implementation.

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 103.

<sup>(2)</sup> OJ L 184, 17.7.1999, p. 23.

<sup>(3)</sup> OJ L 252, 25.9.1999, p. 1.

<sup>(4)</sup> Council Regulation (EEC) No 206/68 of 20 February 1968 laying down outline provisions for contracts and inter-trade agreements on the purchase of beet (OJ L 47, 23.2.1968, p. 1).

<sup>(5)</sup> Council Regulation (EEC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar (OJ L 89, 10.4.1968, p. 3).

<sup>(6)</sup> Council Regulation (EEC) No 447/68 of 9 April 1968 laying down general rules for intervention buying of sugar (OJ L 91, 12.4.1968, p. 5). Regulation as last amended by Regulation (EEC) No 1359/77 (OJ L 156, 25.6.1977, p. 7).

<sup>(7)</sup> Council Regulation (EEC) No 2049/69 of 17 October 1969 laying down general rules on the denaturing of sugar for animal feed (OJ L 263, 21.10.1969, p. 1).

<sup>(8)</sup> Council Regulation (EEC) No 793/72 of 17 April 1972 fixing the standard quality for white sugar (OJ L 94, 21.4.1972, p. 1).

<sup>(9)</sup> Council Regulation (EEC) No 741/75 of 18 March 1975 laying down special rules for the purchase of sugar beet (OJ L 74, 22.3.1975, p. 2).

<sup>(10)</sup> Council Regulation (EEC) No 1358/77 of 20 June 1977 laying down general rules for offsetting storage costs for sugar and repealing Regulation (EEC) No 750/68 (OJ L 156, 25.6.1977, p. 4).

<sup>(11)</sup> Council Regulation (EEC) No 1789/81 of 30 June 1981 laying down general rules concerning the system of minimum stocks in the sugar sector (OJ L 177, 1.7.1981, p. 39). Regulation as last amended by Regulation (EC) No 725/97 (OJ L 108, 25.4.1997, p. 13).

<sup>(12)</sup> Council Regulation (EEC) No 193/82 of 26 January 1982 laying down general rules for transfers of quotas in the sugar sector (OJ L 21, 29.1.1982, p. 3).

<sup>(13)</sup> Council Regulation (EEC) No 1010/86 of 25 March 1986 laying down general rules for the production refund on certain sugar products used in the chemical industry (OJ L 94, 9.4.1986, p. 9).

<sup>(14)</sup> Council Regulation (EEC) No 2225/86 of 15 July 1986 laying down measures for the marketing of sugar produced in the French overseas departments and for the equalisation of the price conditions with preferential raw sugar (OJ L 194, 17.7.1986, p. 7).

- (39) Regulation (EC) No 2038/1999 provided for a system for compensating storage costs. Since the regime to be introduced by this Regulation does not include such a system, transitional provisions should be adopted to ease the transition from the old system to the new one. To that end, firstly, the balance of the old compensation system for storage costs should be charged, if negative, or credited, if positive, to the system for financing the disposal of surplus Community production in the sugar sector and, secondly, the date of disposal for the purposes of paying the storage levy for sugar in storage at the date of entry into application of this Regulation should be deemed to be the last day of the 2000/2001 marketing year.
- (40) It should be possible to adopt transitional rules to ease the transition from the regime provided for by Regulation (EC) No 2038/1999 to the new arrangements introduced by this Regulation,

HAS ADOPTED THIS REGULATION:

### Article 1

#### Scope and definitions

1. The common organisation of the markets in the sugar sector established by this Regulation shall cover the following products:

| CN Code  | Description  |
|--|--|
| (a) 1701   | Cane or beet sugar and chemically pure sucrose, in solid form  |
| (b) 1212 91<br>1212 92 00                                | Sugar beet<br>Sugar cane   |
| (c) 1703   | Molasses resulting from the extraction or refining of sugar  |
| (d) 1702 20  | Maple sugar and maple syrup  |
| 1702 60 95<br>1702 90 99                                 | Other sugars in solid form and sugar syrups, not containing added flavouring or colouring matter, but not including lactose, glucose, maltodextrine and isoglucose |
| 1702 90 60   | Artificial honey, whether or not mixed with natural honey  |
| 1702 90 71   | Caramel containing 50 % or more by weight of sucrose in the dry matter   |
| 2106 90 59   | Flavoured or coloured sugar syrups, other than isoglucose, lactose, glucose and maltodextrine syrups   |
| (e) 2303 20  | Beet pulp, bagasse and other waste of sugar manufacture  |
| (f) 1702 30 10<br>1702 40 10<br>1702 60 10<br>1702 90 30 | Isoglucose   |
| (g) 2106 90 30   | Flavoured or coloured isoglucose syrups  |
| (h) 1702 60 80<br>1702 90 80                             | Insulin syrup  |

2. For the purposes of this Regulation:

- (a) 'white sugars' means sugars, not flavoured or coloured or containing any other added substances, containing, in the dry state, 99,5 % or more by weight of sucrose, determined by the polarimetric method;



- (b) 'raw sugars' means sugars, not flavoured or coloured or containing any other added substances, containing, in the dry state, 99,5 % by weight of sucrose, determined by the polarimetric method;
- (c) 'isoglucose' means the product obtained from glucose or its polymers with a content by weight in the dry state of at least 10 % fructose;
- (d) 'insulin syrup' means the immediate product obtained by hydrolysis of insulin or oligofructoses, containing in the dry state at least 10 % fructose in free form or as sucrose;
- (e) 'A sugar' and 'A isoglucose' means any quantity of sugar or isoglucose production attributed to a specific marketing year under the A quota of the undertaking concerned;
- (f) 'B sugar' and 'B isoglucose' means any quantity of sugar or isoglucose production attributed to a specific marketing year in excess of the A quota but within the sum of the A and B quotas of the undertaking concerned;
- (g) 'C sugar' and 'C isoglucose' means any quantity of sugar or isoglucose production attributed to a specific marketing year either over and above the sum of the A and B quotas of the undertaking concerned or by an undertaking which has no quota;
- (h) 'A beet' means all beet processed into A sugar;
- (i) 'B beet' means all beet processed into B sugar;
- (j) 'A insulin syrup' means any quantity of insulin syrup production, expressed as sugar/isoglucose equivalent, attributed to a specific marketing year under the A quota of the undertaking concerned;
- (k) 'B insulin syrup' means any quantity of insulin syrup production, expressed as sugar/isoglucose equivalent, attributed to a specific marketing year in excess of the A quota but within the sum of the A and B quotas of the undertaking concerned;
- (l) 'C insulin syrup' means any quantity of insulin syrup production, expressed as sugar/isoglucose equivalent, attributed to a specific marketing year either over and above the sum of the A and B quotas of the undertaking concerned or by an undertaking which has no quota;
- (m) for all the products listed in paragraph 1, 'marketing year' means the period beginning on 1 July and ending on 30 June of the following year.

## TITLE I

### INTERNAL MARKET

#### CHAPTER 1

##### Prices

##### *Article 2*

1. For the 2001/2002 to 2005/2006 marketing years, for white sugar:
  - (a) the intervention price shall be EUR 63,19/100 kg,
  - (b) a derived intervention price shall be fixed each year for each of the deficit areas.
2. For the 2001/2002 to 2005/2006 marketing years, the intervention price for raw sugar shall be EUR 52,37/100 kg.

Where it is necessary to market raw sugar produced in a deficit area, a derived intervention price may be fixed for such sugar.

3. The intervention prices referred to in paragraphs 1 and 2 shall apply to unpacked sugar, ex-factory, loaded on to a means of transport chosen by the purchaser.

They shall be valid for white sugar and raw sugar of the standard quality described in Annex I.

4. Acting in accordance with the procedure referred to in Article 42(2), the Commission shall fix derived intervention prices for white sugar each year, and for raw sugar when necessary.

Derived intervention prices shall be fixed taking account of the costs of transporting sugar from surplus areas to deficit areas.

The Commission may amend Annex I in accordance with the same procedure.

#### *Article 3*

1. For the 2001/2002 to 2005/2006 marketing years, the basic price for beet of the standard quality shall be EUR 47,67 per tonne delivered to the collection centre.

The standard quality for beet shall be as described in Annex II.

2. The Commission may amend Annex II in accordance with the procedure referred to in Article 42(2).

#### *Article 4*

1. For the 2001/2002 to 2005/2006 marketing years:

(a) the minimum price for A beet shall be EUR 46,72 per tonne;

(b) subject to Article 15(5), the minimum price for B beet shall be EUR 32,42 per tonne.

2. For areas for which a derived intervention price is fixed for white sugar, the minimum prices for A beet and B beet shall be increased by an amount equal to the difference between the derived intervention price for the area concerned and the intervention price, such amount being adjusted by the coefficient 1.30.

#### *Article 5*

1. Without prejudice to Article 21 and the provisions adopted under Article 14, 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, 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:

(a) in non-deficit areas, to:

— the minimum price for A beet, in the case of beet to be processed into A sugar,

— the minimum price for B beet, in the case of beet to be processed into B sugar;

(b) in deficit areas:

— the minimum price for A beet adjusted in accordance with Article 4(2), in the case of beet to be processed into A sugar,

— the minimum price for B beet adjusted in accordance with Article 4(2), in the case of beet to be processed into B sugar.

3. Detailed rules for applying this Article, as well as the price increases and reductions, shall be adopted in accordance with the procedure referred to in Article 42(2).

*Article 6*

1. Agreements within the trade and contracts concluded between buyers and sellers of beet must conform to the standard provisions set out in Annex III hereto, in particular as regards the conditions governing the purchase, delivery, taking over and payment of beet.

2. The terms for buying sugar cane shall be governed by agreements within the trade concluded between Community sugar-cane producers and Community sugar manufacturers.

The terms for buying the agricultural raw materials for the manufacture of insulin syrup shall be governed by agreements within the trade between Community growers of those raw materials and insulin syrup producers.

3. If necessary, detailed rules for applying paragraphs 1 and 2 shall be adopted in accordance with the procedure referred to in Article 42(2).

4. If no agreements within the trade exist, the Member State concerned may take the necessary steps under this Regulation to protect the interests of the parties concerned.

The Member State concerned shall inform the Commission without delay of measures taken under the first subparagraph.

*Article 7*

1. Throughout the marketing year, and subject to conditions to be determined in accordance with paragraphs 5 and 6, the intervention agency designated by each sugar-producing Member State shall be required to buy in any white and raw sugar produced under quota offered to it which has been manufactured from beet and cane harvested in the Community, provided a storage contract has first been concluded between the seller and the intervention agency for the sugar concerned.

Intervention agencies shall buy in at the intervention price or the derived intervention price, as the case may be, valid for the area in which the sugar is located at the time of buying in. If the quality of the sugar differs from the standard quality for which the intervention price was fixed, then this price shall be increased or reduced accordingly.

2. It may be decided to grant premiums for sugar in one of the situations referred to in Article 23(2) of the Treaty which is rendered unfit for human consumption.

3. It has been decided to grant production refunds on the products listed in Article 1(1)(a) and (f) and on the syrups listed in Article 1(1)(d), and on chemically pure fructose (levulose) falling within CN Code 1702 50 00 as an intermediate product, where these fall within one of the situations referred to in Article 23(2) of the Treaty and are used to manufacture certain products of the chemical industry.

The refund shall be fixed taking account in particular of the costs arising from the use of imported sugar which the chemical industry would have to bear in the event of supply on the world market.

4. Flat-rate Community aid shall be granted for the disposal, in the European regions of the Community, of sugar produced in the French overseas departments. This aid shall concern:

- the refining in refineries in the European regions of the Community of sugar produced in these departments, in particular in accordance with their yield;
- the transport of sugar produced in the French overseas departments to the European regions of the Community and where appropriate, its storage in these departments;

the flat-rate amounts for the transport costs from each department to the European regions of the Community shall include in particular:

- a flat-rate amount representing the transport costs ex-factory to FOB;
- a flat-rate amount representing the shipping costs from FOB to cif ship's hold European ports of the Community and the insurance costs involved.

If the supply of refineries so requires, raw sugar manufactured from beet harvested in the Community may qualify for measures as referred to in the first subparagraph.

For the purposes of this Article, 'refinery' means a production unit whose sole activity consists in refining either raw sugar or syrups produced prior to the crystallising stage.

5. Detailed rules for applying this Article shall be adopted in accordance with the procedure referred to in Article 42(2), covering in particular:

- the minimum quality and quantity requirements for intervention,
- the price increases and reductions applicable on intervention,
- the procedures and requirements for taking over by the intervention agencies,
- the conditions for granting premiums and the amounts of such premiums,
- the conditions for granting production refunds and the amounts of such refunds,
- the possibility, if necessary, of limiting the granting of production refunds for levulose to an overall quantity of that product, to be determined for the Community,
- the possibility of granting production refunds for the products referred to in Article 1(1)(h),
- the measures referred to in paragraph 4.

#### *Article 8*

Where Article 31 is applied to help ensure supplies to the Community or one of its regions, the Commission shall adopt special intervention measures in accordance with the procedure referred to in Article 42(2).

Such measures may not result in Community sugar manufacturers being obliged to sell sugar to intervention agencies.

#### *Article 9*

1. Intervention agencies may sell sugar only at a price which is higher than the intervention price.

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

- for use as animal feed, or
- for export, either without further processing or after processing into the products listed in Annex I to the Treaty or into the goods listed in Annex V to this Regulation.

2. However, notwithstanding paragraph 1, it may be decided that intervention agencies are to make unprocessed sugar held by them available, for human consumption on the internal market of the Community, to charitable organisations — recognised by the Member State concerned or by the Commission in cases where a Member State has not recognised any such organisations — at a price which is lower than the intervention price, or free of charge, for free distribution as part of individual emergency aid operations.

3. Detailed rules for applying this Article and decisions to make sugar available under paragraph 2 shall be adopted in accordance with the procedure referred to in Article 42(2).

## CHAPTER 2

## Quotas

## Article 10

1. Chapter 2 shall apply to the 2001/2002 to 2005/2006 marketing years.
2. The basic quantities for the production of A and B sugar, isoglucose and insulin syrup shall be those fixed in Article 11(2).
3. The guarantees for the disposal of sugar, isoglucose and insulin syrup produced under quota may be reduced for one or more marketing years in order to comply with the Community's commitments under the Agricultural Agreement concluded under Article 300(2) of the Treaty.
4. For the purposes of applying paragraph 3, the guaranteed quantity under quotas shall be fixed before 1 October for each marketing year on the basis of forecasts relating to production, imports, consumption, storage, carryovers, the exportable balance and the average loss likely to be borne by the self-financing scheme within the meaning of Article 15(1)(d). If these forecasts show that the exportable balance for the marketing year in question is greater than the maximum laid down in the Agreement, then the guaranteed quantity shall be reduced by the difference in accordance with the procedure referred to in Article 42(2). This difference shall be split between sugar, isoglucose and insulin syrup according to the percentage represented by the sum of each product's A and B quotas for the entire Community. It shall then be further broken down by Member State and by product by applying the relevant coefficient as set out in the table below:

| Regions  | 1  |          | 2  |              | 3  |                 |
|--|--|----------|--|--------------|--|-----------------|
|  | Coefficient applicable to sugar expressed as white sugar |          | Coefficient applicable to isoglucose in dry matter |              | Coefficient applicable to insulin syrup as sugar/isoglucose equivalent |                 |
|  | A sugar  | B sugar  | A isoglucose                                       | B isoglucose | A insulin syrup  | B insulin syrup |
| BLEU <sup>(1)</sup>                            | 0,046201   | 0,009920 | 0,225547   | 0,062024     | 0,556265   | 0,130955        |
| Denmark  | 0,027206   | 0,008015 | —  | —            | —  | —               |
| Germany  | 0,224812   | 0,069174 | 0,104246   | 0,024551     | —  | —               |
| Greece   | 0,012352   | 0,001235 | 0,037978   | 0,008944     | —  | —               |
| Spain  | 0,026459   | 0,001102 | 0,166138   | 0,017721     | —  | —               |
| France (metropolitan) <sup>(2)</sup>           | 0,213231   | 0,063239 | 0,061081   | 0,015898     | 0,058922   | 0,013847        |
| French overseas depts. <sup>(2)</sup>          | 0,019298   | 0,002063 | —  | —            | —  | —               |
| Ireland  | 0,007752   | 0,000775 | —  | —            | —  | —               |
| Italy  | 0,082491   | 0,015514 | 0,059803   | 0,014083     | —  | —               |
| Netherlands                                    | 0,053393   | 0,014083 | 0,026804   | 0,006313     | 0,194365   | 0,045646        |
| Portugal (mainland)                            | 0,002323   | 0,000232 | 0,029213   | 0,006880     | —  | —               |
| Portugal (the autonomous region of the Azores) | 0,000387   | 0,000039 | —  | —            | —  | —               |
| United Kingdom                                 | 0,044297   | 0,004430 | 0,084713   | 0,022596     | —  | —               |
| Austria  | 0,022673   | 0,005292 | —  | —            | —  | —               |
| Sweden   | 0,014327   | 0,001433 | —  | —            | —  | —               |
| Finland  | 0,005683   | 0,000568 | 0,023151   | 0,002316     | —  | —               |

<sup>(1)</sup> Belgo-Luxembourg Economic union.

<sup>(2)</sup> Under the second subparagraph of Article 12(3)

5. The Member State shall then allocate the difference corresponding to it among the producer undertakings established in its territory on the basis of the ratio between their A and B quotas for the product in question and the basic quantity A and the basic quantity B for the Member State for that product.

Sugar, isoglucose and insulin syrup produced in excess of the quantity guaranteed shall be treated as C sugar, C isoglucose and C insulin syrup.

6. Detailed rules for applying this Article, in particular for reducing the guaranteed quantity and, where applicable, adjusting that quantity with a view to fixing the guaranteed quantity for the following marketing year, shall be adopted in accordance with the procedure referred to in Article 42(2).

### Article 11

1. Under the terms of this Chapter, the Member States shall allocate an A and B quota to each undertaking producing sugar, each undertaking producing isoglucose and each undertaking producing insulin syrup established in its territory and provided with an A and B quota during the 2000/2001 marketing year.

2. For the purposes of allocating the A and B quotas referred to in paragraph 1, the basic quantities shall be fixed as follows:

#### 1. Basic quantities A

| Regions                             | (a) Basic quantity A for sugar <sup>(1)</sup> | (b) Basic quantity A for isoglucose <sup>(2)</sup> | (c) Basic quantity A for insulin syrup <sup>(3)</sup> |
|-------------------------------------|---|--|---|
| Denmark                             | 325 000,0                                     | —  | —   |
| Germany                             | 2 612 913,3                                   | 28 643,3   | —   |
| Greece                              | 288 638,0                                     | 10 435,0   | —   |
| Spain                               | 957 082,4                                     | 74 619,6   | —   |
| France (metropolitan)               | 2 506 487,4                                   | 15 747,1   | 19 847,1  |
| French overseas departments         | 463 872,0                                     | —  | —   |
| Ireland                             | 181 145,2                                     | —  | —   |
| Italy                               | 1 310 903,9                                   | 16 432,1   | —   |
| Netherlands                         | 684 112,4                                     | 7 364,6  | 65 519,4  |
| Austria                             | 314 028,9                                     | —  | —   |
| Portugal (mainland)                 | 63 380,2                                      | 8 027,0  | —   |
| The autonomous region of the Azores | 9 048,2                                       | —  | —   |
| Finland                             | 132 806,3                                     | 10 792,0   | —   |
| Sweden                              | 334 784,2                                     | —  | —   |
| Belgium/Luxembourg Economic Union   | 674 905,5                                     | 56 150,6   | 174 218,6   |
| United Kingdom                      | 1 035 115,4                                   | 21 502,0   | —   |

<sup>(1)</sup> In tonnes of white sugar.

<sup>(2)</sup> In tonnes of dry matter.

<sup>(3)</sup> In tonnes of dry matter white sugar/isoglucose equivalent.

## 2. Basic quantities B

| Regions                             | (a) Basic quantity B for sugar <sup>(1)</sup> | (b) Basic quantity B for isoglucose <sup>(2)</sup> | (c) Basic quantity B for insulin syrup <sup>(3)</sup> |
|-------------------------------------|---|--|---|
| Denmark                             | 95 745,5                                      | —  | —   |
| Germany                             | 803 982,2                                     | 6 745,5  | —   |
| Greece                              | 28 863,8                                      | 2 457,5  | —   |
| Spain                               | 39 878,5                                      | 7 959,4  | —   |
| France                              | 752 259,5                                     | 4 098,6  | 4 674,2   |
| France overseas departments         | 46 372,5                                      | —  | —   |
| Ireland                             | 18 114,5                                      | —  | —   |
| Italy                               | 246 539,3                                     | 3 869,8  | —   |
| Netherlands                         | 180 447,1                                     | 1 734,5  | 15 430,5  |
| Austria                             | 73 297,5                                      | —  | —   |
| Portugal (mainland)                 | 6 338,0                                       | 1 890,3  | —   |
| The autonomous region of the Azores | 904,8   | —  | —   |
| Finland                             | 13 280,4                                      | 1 079,7  | —   |
| Sweden                              | 33 478,0                                      | —  | —   |
| Belgium/Luxembourg Economic Union   | 144 906,1                                     | 15 441,0   | 41 028,2  |
| United Kingdom                      | 103 511,5                                     | 5 735,3  | —   |

<sup>(1)</sup> In tonnes of white sugar.

<sup>(2)</sup> In tonnes of dry matter.

<sup>(3)</sup> In tonnes of dry matter white sugar/isoglucose equivalent.

3. Without prejudice to Article 10(3), (4), (5) and (6) and Article 12, the A and B quotas of undertakings producing sugar, undertakings producing isoglucose and undertakings producing insulin syrup shall be those assigned by the Member States for the 2000/2001 marketing year before application of Article 26(5) of Regulation (EC) No 2038/1999, adjusted according to the basic quantities fixed in paragraph 2 in accordance with the procedure laid down in Article 10(5).

4. Detailed rules for implementing this Article shall be adopted, as the need arises, in accordance with the procedure referred to in Article 42(2).

## Article 12

1. Member States may transfer A and B quotas between undertakings in accordance with this Article and taking into consideration the interests of each of the parties concerned, particularly sugar beet and cane producers.

The first subparagraph shall not apply to insulin syrup.

2. Member States may reduce the A and B quotas of each sugar-producing undertaking or isoglucose-producing undertaking established in their territories by no more than 10 % of the A quota or the B quota, as the case may be, fixed for each undertaking under Article 11.

The 10 % limit referred to in the first subparagraph shall not apply in Italy, Spain and the French overseas departments in cases where quotas are transferred under restructuring plans in the beet, cane and sugar sectors in the region concerned and to the extent necessary to permit such plans to be implemented.

Restructuring plans and the ensuing measures affecting the A and B quotas shall be communicated to the Commission without delay.

3. The quantities of A quotas and B quotas thus withdrawn shall be allocated by the Member States to one or more other undertakings, whether or not in possession of a quota, situated in the same region, within the meaning of Article 11(2), as the undertakings from which those quantities were withdrawn.

Nevertheless, France may reduce the A quotas of undertakings established in its overseas departments, as fixed under Article 11, by not more than 30 000 tonnes of white sugar and may reallocate the quantities thus withdrawn to one or more other undertakings established in metropolitan France. The A quota of each undertaking concerned may not be less after reduction than the average quantity of sugar it produced under its quota as recorded in each of the 1977/1978, 1978/1979 and 1979/1980 marketing years.

4. Annex IV lays down detailed rules on adjusting quotas in the event of mergers and transfers of undertakings.

5. Detailed rules for applying this Article shall be adopted in accordance with the procedure referred to in Article 42(2).

#### Article 13

1. C sugar not carried forward under Article 14, C isoglucose and C insulin syrup may not be disposed of on the Community's internal market and must be exported without further processing before 1 January following the end of the marketing year concerned.

Articles 7, 27 and 33 shall not apply to C sugar, C isoglucose and C insulin syrup.

2. Exceptionally, and to the extent necessary to guarantee the Community's sugar supplies, it may be decided that Article 33 shall apply to C sugar. In that event, it shall be decided at the same time that the entire quantity of C sugar concerned may be definitively disposed of on the internal market without the amount provided for in paragraph 3 of this Article being levied.

3. Detailed rules for applying this Article shall be adopted in accordance with the procedure referred to in Article 42(2).

These rules shall provide in particular for a charge to be levied on C sugar, C isoglucose and C insulin syrup as referred to in paragraph 1 for which no proof has been supplied, by a date to be determined, that it has been exported without further processing within the time laid down.

#### Article 14

1. Each undertaking may decide to carry forward all or part of the sugar it has produced in excess of its quota to the next marketing year to be treated as part of that year's production. That decision shall be irrevocable.

Each undertaking may decide to carry forward all or part of its production of A sugar and B sugar which has become C sugar after application of Article 10(3), (4), (5) and (6) to the next marketing year to be treated as part of that year's production. That decision shall also be irrevocable. Furthermore, it shall not be subject to any limit that may be laid down under paragraph 4 of this Article.

2. Undertakings which take the decision referred to in paragraph 1 shall:

- inform the Member State concerned, before 1 February, of the quantity or quantities of sugar being carried forward, and
- undertake to store such quantity or quantities for a period of 12 consecutive months from a date to be determined.

However, the date of 1 February referred to in the first indent of the first subparagraph shall be replaced:

- (a) for undertakings established in Spain, by 15 April in the case of beet-sugar production and 20 June in the case of cane-sugar production;



- (b) for undertakings established in the United Kingdom, by 15 February.
- (c) for undertakings established in the French overseas departments of Guadeloupe and Martinique, by 1 May.

If an undertaking's definitive production in the marketing year concerned was less than the estimate made when the decision to carry forward was taken, then the quantity carried forward may be adjusted retroactively before 1 August of the following marketing year.

3. Should a natural disaster such as drought or flooding strike a Community region, it may be decided, in accordance with the procedure referred to in Article 42(2), to reduce the period of compulsory storage referred to in the second indent of the first subparagraph of paragraph 2 for a quantity of sugar sufficient to ensure the normal supply of the affected region.

4. Detailed rules for applying this Article, which may restrict the quantities of sugar which may be carried forward, shall be adopted in accordance with the procedure referred to in Article 42(2).

These rules shall provide, in particular, for a charge to be levied on any sugar from the quantity to be stored under the second indent of the first subparagraph of paragraph 2 which is disposed of during the compulsory storage period.

#### Article 15

1. Before the end of each marketing year, the following shall be recorded:

- (a) a forecast of the production of A and B sugar, A and B isoglucose and A and B insulin syrup attributable to the marketing year concerned;
- (b) a forecast of the quantities of sugar, isoglucose and insulin syrup disposed of for consumption within the Community during the marketing year concerned;
- (c) the exportable surplus obtained by subtracting the quantity referred to in (b) from the quantity referred to in (a);
- (d) an estimate of the average loss or revenue per tonne of sugar for export obligations to be fulfilled during the current marketing year.

This average loss or revenue shall be equal to the difference between the total amount of refunds and the total amount of levies on the total tonnage of export obligations in question;

- (e) an estimate of overall loss or revenue, obtained by multiplying the surplus referred to in (c) by the average loss or revenue referred to in (d).

2. Before the end of the 2005/2006 marketing year and without prejudice to Article 10(3), (4), (5) and (6), the following shall be recorded cumulatively for the 2001/2002 to 2005/2006 marketing years:

- (a) the exportable surplus established on the basis of the definitive production of A and B sugar, A and B isoglucose and A and B insulin syrup and the definitive quantity of sugar, isoglucose and insulin syrup disposed of for consumption within the Community;
- (b) the average loss or revenue per tonne of sugar resulting from the total export obligations concerned, calculated using the method described in the second subparagraph of paragraph 1(d) above;
- (c) the overall loss or revenue, obtained by multiplying the surplus referred to in (a) by the average loss or revenue referred to in (b);
- (d) the sum total of the basic production levies and the B levies charged.

The estimate of overall loss or revenue referred to in paragraph 1(e) shall be adjusted by the difference between the amounts referred to in (c) and (d).

3. Without prejudice to Article 18(1), should the figures recorded under paragraph 1 and adjusted under paragraph 2 result in a foreseeable overall loss, then that loss shall be divided by the estimated production of A and B sugar, A and B isoglucose and A and B insulin syrup attributable to the current marketing year. The resulting amount shall be charged to manufacturers as a basic production levy on their production of A and B sugar, A and B isoglucose and A and B insulin syrup.

However, this levy shall not exceed:

- for sugar, 2 % of the intervention price for white sugar,
- for insulin syrup, expressed as sugar/isoglucose equivalent by applying a coefficient of 1,9, the maximum amount payable on white sugar, and
- for isoglucose, the share of the basic production levy borne by sugar manufacturers.

4. Should the maximum permitted basic production levy not fully cover the overall loss referred to in the first subparagraph of paragraph 3, the balance not covered shall be divided by the estimated production of B sugar, B isoglucose and B insulin syrup attributable to the marketing year in question. The resulting amount shall be charged to manufacturers as a B levy on their production of B sugar, B isoglucose and B insulin syrup.

However, subject to paragraph 5, this levy shall not exceed:

- for B sugar, 30 % of the intervention price for white sugar,
- for B insulin syrup, expressed as sugar/isoglucose equivalent by applying a coefficient of 1,9, the maximum amount payable on B white sugar, and
- for B isoglucose, the share of the B levy borne by sugar manufacturers.

5. Where the figures recorded under paragraph 1 suggest that the foreseeable overall loss for the current marketing year is unlikely to be covered by the expected proceeds from the levies because of the ceilings on the basic production levy and the B levy fixed in paragraphs 3 and 4, then the maximum percentage referred to in the first indent of paragraph 4 shall be adjusted to the extent necessary to cover the overall loss, without exceeding 37,5 %.

The revised maximum percentage for the B levy shall be fixed for the current marketing year before 15 September. The minimum price for B beet referred to in Article 4(1)(b) shall be adjusted accordingly.

6. All the losses resulting from the grant of production refunds under Article 7(3) shall be taken into account when calculating the overall loss referred to in paragraph 1(e).

7. The levies referred to in this Article shall be collected by the Member States.

8. Detailed rules for applying this Article shall be adopted in accordance with the procedure referred to in Article 42(2), and shall cover in particular:

- the amounts of the levies to be collected,
- the revised maximum percentage for the B levy,
- the adjusted minimum price for B beet corresponding to the revised maximum percentage for the B levy.

#### Article 16

1. Where the overall loss recorded for a particular marketing year under Article 15(1) and (2) is not fully covered by the proceeds from the production levies for that marketing year after application of Article 15(3), (4) and (5), an additional levy shall be charged to manufacturers, without prejudice to Article 4, to cover the outstanding balance of the overall loss.

2. The additional levy shall be determined for each sugar-producing undertaking, each isoglucose-producing undertaking and each insulin syrup-producing undertaking by multiplying the total sum due from the undertaking by way of production levies for the marketing year concerned by a coefficient to be determined. That coefficient shall be the ratio for the entire Community, reduced by 1, between the overall loss recorded under Article 15(1) and (2) for the marketing year concerned and the proceeds from the basic production levies and B levies due from manufacturers of sugar, isoglucose and insulin syrup, respectively, for that marketing year.

3. The manufacturers concerned shall pay the additional levy before 15 December following the marketing year for which it is due.

Sugar manufacturers may recover part of the additional levy thus charged to them from sellers of Community-produced cane or beet, as the case may be. The amount thus recovered may not exceed the maximum amount contributed by the beet and cane sellers towards the basic production levy and the B levy, provided for in Article 15, for the marketing year in question multiplied by the coefficient referred to in paragraph 2 of this Article.

The amount referred to in the second subparagraph shall be recovered on beet delivered during the marketing year in question. However, the parties concerned may agree that the refund shall be recovered on beet delivered during the following marketing year.

4. The proceeds from the additional levy referred to in paragraph 1 of this Article shall be included for the purposes of the information recorded under Article 15(2).

5. Detailed rules for applying this Article, in particular the coefficient referred to in paragraph 2, shall be adopted in accordance with the procedure referred to in Article 42(2).

#### *Article 17*

1. Manufacturers of insulin syrup may recover part of the basic production levies, B levies and additional levies charged to them from the sellers of the agricultural raw material used to manufacture such insulin syrup. The amount thus recovered may not exceed the amount borne by the beet growers for the marketing year concerned; it shall be fixed by agreements within the trade or by contracts on the basis of the purchase price of the agricultural raw material delivered for the manufacture of insulin syrup during the marketing year in question.

2. Detailed rules for applying paragraph 1 shall be adopted as necessary, in accordance with the procedure referred to in Article 42(2).

#### *Article 18*

1. If, after Articles 15 and 16 have been applied to the 2000/2001 marketing year, it is found that the actual overall loss for that marketing year:

- (a) is not fully covered by the proceeds of the production levy and, if applicable, the additional levy, the resulting financial burden shall be added to the estimate of overall loss referred to in Article 15(1)(e) for the marketing year concerned;
- (b) is less than the proceeds of the production levies and, if applicable, the additional levy, the difference shall be deducted from the estimate of overall loss or added to the estimate of overall revenue, as the case may be, resulting from applying Articles 15 and 16 to the marketing year concerned.

2. When the basic production levy is lower than the maximum amount referred to in Article 15(3) or when the B levy is lower than the maximum amount referred to in Article 14(4), adjusted, where necessary, in accordance with Article 15(4), sugar manufacturers shall be required to pay the beet sellers 60 % of the difference between the maximum amount of the levy concerned and the amount actually charged.

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

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

3. Community sugar manufacturers may recover 60 % of the levy concerned from the sellers of cane produced in the Community on the quantity of sugar for which the levy was charged.

4. Member States shall ensure from the information provided by the sugar manufacturers that the payment for the beet complies with the relevant Community rules.

5. Detailed rules for applying this Article shall be adopted in accordance with the procedure referred to in Article 42(2).

*Article 19*

1. In contracts for the delivery of beet for the manufacture of sugar, a distinction shall be made according to whether the quantities of sugar to be manufactured from the beet are:

- (a) A sugar,
- (b) B sugar,
- (c) sugar other than A and B sugar.

Each sugar-manufacturing undertaking shall provide the Member State in which it produces sugar with the following information:

- the quantities of beet referred to at (a) for which they have concluded pre-sowing contracts and the sugar content on which those contracts are based, and
- the corresponding estimated yield.

The Member States may require additional information.

2. Notwithstanding Article 5(2)(b), sugar manufacturers who have not signed pre-sowing delivery contracts for a quantity of beet equal to their A quota at the minimum price for A beet shall be required to pay at least this minimum price for all the beet they process into sugar.

3. Agreements within the trade may derogate from paragraphs 1 and 2 provided the Member State concerned agrees.

4. The general rules for applying this Article are set out in Annex III.

5. Detailed rules for applying this Article and, if necessary, the criteria to be applied by manufacturers when allocating among beet sellers the quantities of beet to be covered by pre-sowing contracts within the meaning of paragraph 1 shall be adopted in accordance with the procedure referred to in Article 42(2).

*Article 20*

1. It may be decided that sugar or isoglucose used for the manufacture of certain products shall not be considered as production within the meaning of this Chapter.

2. Detailed rules for applying this Article, in particular the exceptions referred to in paragraph 1, shall be adopted in accordance with the procedure referred to in Article 42(2).

*Article 21*

1. Sugar manufacturers may buy beet with which to manufacture C sugar or the sugar referred to in Article 20 at a price lower than the minimum prices for beet fixed in Article 4(1).

2. For the quantity of beet purchased corresponding to the quantity of sugar:
- disposed of on the internal market under Article 13(3), or
  - carried forward to the following marketing year under Article 14,

the sugar manufacturers concerned shall, where appropriate, adjust the purchase price so that it is at least equal to the minimum price for A beet.

3. Detailed rules for applying this Article shall be adopted as necessary in accordance with the procedure referred to in Article 42(2).

## TITLE II

## TRADE WITH THIRD COUNTRIES

## CHAPTER 1

## General rules

## Article 22

1. Imports into and exports from the Community of any of the products listed in Article 1(1)(a),(b),(c),(d),(f),(g) and (h) shall be subject to presentation of an import or export licence.

The Member States shall issue licences to all applicants, irrespective of where they are established in the Community and without prejudice to measures taken to apply Articles 26 and 27, and Article 6(5) of Regulation (EC) No 2820/98 <sup>(1)</sup>.

Import and export licences shall be valid throughout the Community. Such licences shall be issued provided a security is lodged to guarantee that the products are imported or exported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeit in whole or in part if import or export is not carried out, or is carried out only partially, within that period.

2. In accordance with the procedure referred to in Article 42(2):

- (a) the arrangements provided for in paragraph 1 may be extended to cover the products listed in Article 1(1)(e);
- (b) detailed rules shall be adopted for applying this Article, including in particular the term of validity of licences and, if necessary, a time limit for the issue of licences.

## Article 23

1. Unless this Regulation provides otherwise, the rates of duty in the common customs tariff shall apply to the products listed in Article 1.

2. Notwithstanding paragraph 1, to ensure that the Community market is adequately supplied with raw sugar for refining falling within CN codes 1701 11 10 and 1701 12 10 molasses falling within CN code 1703 by means of imports from third countries, the Commission may suspend in whole or in part the application of import duties on these products and lay down the detailed rules for any such suspension in accordance with the procedure laid down in Article 42(2).

Suspension may apply during periods when the price on the world market plus the import duty in the common customs tariff:

- is higher than the intervention price for the product, in the case of raw sugar,
- in the case of molasses, is higher than the price of molasses used to calculate revenue from sales of molasses by sugar manufacturers for the purposes of fixing the basic price for beet for the marketing year concerned.

## Article 24

1. In order to prevent or counteract any adverse effects on the Community market caused by imports of certain agricultural products, imports of one or more of such products at the rate of duty laid down in the common customs tariff shall be subject to payment of an additional import duty if the conditions in Article 5 of the Agreement on Agriculture concluded under Article 300 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations are met, unless such imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

<sup>(1)</sup> OJ L 357, 30.12.1998. Regulation as last amended by Regulation (EC) No 416/2001 (OJ L 60, 1.3.2001, p. 43).

2. The trigger prices below which an additional duty may be imposed shall be those forwarded by the Community to the World Trade Organisation.

The trigger volumes which must be exceeded in order for an additional import duty to be imposed shall be determined in particular on the basis of imports into the Community during the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment concerned.

The cif import prices shall be checked for this purpose against the representative prices for the product in question on the world market or on the Community import market for the product.

4. The Commission shall adopt detailed rules for applying this Article in accordance with the procedure referred to in Article 42(2). Such detailed rules shall specify in particular:

- (a) the products to which additional import duties may be applied under the terms of Article 5 of the Agreement on Agriculture;
- (b) the other trigger criteria necessary to ensure that paragraph 1 is correctly applied in accordance with Article 5 of that Agreement.

#### *Article 25*

For molasses:

- the world market price referred to in Article 23(2), and
- and
- the representative price referred to in Article 24(3),

shall apply to a standard quality.

The standard quality may be laid down in accordance with the procedure referred to in Article 42(2).

#### *Article 26*

1. Tariff quotas for the products listed in Article 1 resulting from agreements concluded in the framework of the Uruguay Round of multilateral trade negotiations shall be opened and administered under detailed rules adopted in accordance with the procedure referred to in Article 42(2).

2. Quotas shall be administered by one or more of the following methods:

- a method based on the chronological order in which applications are lodged ('first come, first served'),
- a method of distribution in proportion to the quantities requested when the applications are lodged (the 'simultaneous examination' method),
- a method whereby traditional trade patterns are taken into account (the 'traditional/new arrivals' method).

Other appropriate methods may be adopted.

They must avoid any discrimination between the importers concerned.

3. Whichever administration method is adopted shall give due weight to the Community's supply requirements and the need to safeguard market equilibrium, but may also draw on methods used to administer quotas in the past such as those referred to in paragraph 1, without prejudice to the rights arising from agreements concluded in the framework of the Uruguay Round negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, if necessary suitably staggered over the year, shall specify the administrative method to be used and, where appropriate, shall include:

- (a) guarantees covering the nature, provenance and origin of the product,
- (b) recognition of the document used for verifying the guarantees referred to in (a), and
- (c) the conditions under which import licences are issued and their term of validity.

#### Article 27

1. To the extent necessary to enable the products listed in Article 1(1)(a),(c) and (d) to be exported without further processing or in the form of goods listed in Annex V, on the basis of world market quotations or prices in the case of products listed in Article 1(1)(a), (c) and (d), and within the limits resulting from agreements concluded in accordance with Article 300 of the Treaty, the difference between such quotations or prices and prices in the Community may be covered by export refunds.

The export refund for raw sugar may not exceed that granted for white sugar.

2. Provision may be made for export refunds to be granted on the products listed in Article 1(1)(f), (g) and (h) and exported without further processing or in the form of goods listed in Annex V.

The amount of the refund per 100 kg of dry matter shall be fixed taking particular account of:

- (a) the refund applicable to exports of products falling within CN code 1702 30 91,
- (b) the refund applicable to exports of the products listed in Article 1(1)(d),
- (c) the economic aspects of the planned exports.

3. Refunds on the products listed in Article 1 exported in the form of goods listed in Annex V may not be higher than those applicable to the same products exported without further processing.

4. The method adopted for allocating the quantities which may be exported with a refund shall be the one which:

- (a) is most suited to the type of product and market situation concerned, allowing the most efficient possible use of the resources available in view of the efficiency and structure of Community exports but without discriminating between large and small exporters;
- (b) is least cumbersome administratively for exporters without neglecting administrative requirements;
- (c) does not discriminate between exporters.

5. Refunds shall be the same for the whole Community. They may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

Refunds shall be fixed in accordance with the procedure referred to in Article 42(2). Refunds may be fixed:

- (a) at regular intervals;
- (b) by tendering procedure for products for which that procedure has been used in the past.

Refunds fixed at regular intervals may, where necessary, be adjusted in the intervening period by the Commission at the request of a Member State or on its own initiative.

Tenders submitted in response to an invitation shall not be considered unless a security is lodged. Except in cases of force majeure, the securities shall be forfeit in whole or in part if tenderers have not fulfilled, or have only partially fulfilled, their obligations under the tendering procedure.

In the case of undenatured products listed in Article 1(1)(a),(c) and (d) exported without further processing, Articles 28, 29 and 30 shall also apply.

6. When fixing the amount of the refund, account shall be taken in particular of the need to strike a balance between the use of Community basic products for export as processed goods to third countries and the use of products from these countries admitted for inward processing.

7. Refunds shall be granted on the products referred to in paragraph 1 exported without further processing only on application and on presentation of the relevant export licence.

8. The refund applicable to exports of products listed in Article 1 exported without further processing shall be that applicable on the day the licence application is lodged and, in the case of a differentiated refund, that applicable on the same day:

(a) for the destination indicated on the licence,

or

(b) for the actual destination, if it differs from the destination indicated on the licence. In that case the amount applicable may not exceed the amount applicable to the destination indicated on the licence.

Appropriate measures may be taken to prevent abuse of the flexibility provided for in this paragraph.

9. Paragraphs 7 and 8 may be extended to cover products listed in Article 1 and exported in the form of goods listed in Annex V in accordance with the procedure laid down in Article 16 of Regulation (EC) No 3448/93.

10. Paragraphs 7 and 8 may be waived in the case of products listed in Article 1 on which refunds are paid under food-aid operations, in accordance with the procedure referred to in Article 42(2).

11. The refund shall be paid upon proof that:

— the products have been exported from the Community,  
and

— in the case of a differentiated refund, the products have reached the destination indicated on the licence or another destination for which a refund has been fixed, without prejudice to point (b) in the first subparagraph of paragraph 8. Exceptions may be made to this rule in accordance with the procedure referred to in Article 42(2), provided conditions are laid down which offer equivalent guarantees.

Additional rules may be laid down in accordance with the procedure referred to in Article 42(2).

12. No refund shall be granted on undenatured products as referred to in Article 1(1)(a) exported without further processing unless, as the case may be, they have been:

(a) obtained from sugar beet or sugar cane harvested within the Community,

(b) imported into the Community under Article 35,

(c) obtained from one of the products imported under Article 35.

13. No refund shall be granted on undenatured products as referred to in Article 1(c) and (d) exported without further processing which are not of Community origin or which have not been obtained from sugar imported into the Community under paragraph 12(b) or from the products referred to in paragraph 12(c).

14. Compliance with the restrictions on volume resulting from agreements concluded under Article 300 of the Treaty shall be ensured by means of export licences issued for the reference periods provided for in such agreements and applying to the products concerned.



15. The detailed rules for applying this Article, including the arrangements for redistributing unallocated or unused exportable quantities and for amending Annex V, shall be adopted in accordance with the procedure referred to in Article 42(2). However, the detailed rules for applying paragraph 6 in the case of products as referred to in Article 1 exported in the form of goods listed in Annex V shall be adopted in accordance with the procedure laid down in Article 16 of Regulation (EC) No 3448/93.

#### Article 28

1. This Article shall apply to the fixing of refunds on undenatured products as referred to in Article 1(1)(a) exported without further processing.

2. Where refunds for products as referred to in Article 1(1)(a) are fixed at regular intervals:

(a) the refunds shall be fixed every two weeks.

However, such fixing may be discontinued in accordance with the procedure referred to in Article 42(2) if it is found that no surplus sugar is available in the Community for export at world market prices. In that event, no refund shall be granted;

(b) when fixing the refund, account shall be taken of the situation on the Community and world markets in sugar, and in particular the following:

- the intervention price for white sugar for the Community area with the largest surplus or the intervention price for raw sugar for the Community area which is considered to be representative for the exportation of such sugar,
- the costs of transporting sugar from the areas referred to in the first indent to ports or other points of export in the Community,
- trade expenses and any transshipment, transport and packaging charges incurred in marketing sugar on the world market,
- quotations or prices recorded for sugar on the world market,
- the economic aspect of the proposed exports and
- limits resulting from agreements concluded under Article 300 of the Treaty.

3. Where the refund for the products referred to in Article 1(1)(a) is fixed by tendering procedure:

(a) the purpose of the tender shall be to determine the amount of the refund;

(b) the competent authorities of the Member States shall invite tenders in accordance with an instrument legally binding in all Member States. This instrument shall lay down the terms of the tendering procedure, which must guarantee equal access for all persons established within the Community;

(c) the terms of the tendering procedure shall include a time limit for the submission of tenders. Within three working days following the expiry of the time limit, the maximum amount of the refund to which the tendering procedure relates shall be fixed in accordance with the procedure referred to in Article 42(2) in the light of the tenders received. When calculating the maximum amount, account shall be taken of the supply situation and prices within the Community, prices and potential outlets on the world market and the costs incurred in exporting sugar.

A maximum tonnage may be fixed in accordance with the same procedure;

(d) where exports can be effected with a refund which is lower than that which would result from taking account of the difference between prices within the Community and prices on the world market and where exports are for a specific destination, the competent authorities of the Member States may be required to issue a special invitation to tender stipulating:

- that tenders may be submitted at any time until the tendering procedure is terminated, and
- a maximum amount of the refund, calculated in the light of requirements for the exports in question;

(e) if the amount of the refund offered in a tender:

- exceeds the maximum fixed, the competent authorities of the Member States shall reject that tender,
- does not exceed the maximum, those authorities shall fix the refund at an amount equal to the refund offered in the tender concerned.

4. In the case of raw sugar:
  - (a) the refund shall be fixed for the standard quality defined in Annex I;
  - (b) refunds fixed at regular intervals under paragraph 2(a):
    - may not exceed 92 % of the refund for white sugar for the same period. However, this limit shall not apply to refunds to be fixed for candy sugar,
    - shall be multiplied, for each exporting operation concerned, by a conversion factor obtained by dividing the yield of the raw sugar exported, calculated in accordance with Annex I, by 92;
  - (c) the maximum amount as provided for in paragraph 3(c) fixed under a tendering procedure may not exceed 92 % of the maximum amount fixed at the same time for white sugar under that paragraph.

#### Article 29

1. The refund on undenatured products as listed in Article 1(1)(c) exported without further processing shall be fixed each month taking account of:
  - (a) the price of molasses used to calculate revenue from sales of molasses by sugar manufacturers for the purpose of fixing the basic price for beet for the marketing year concerned;
  - (b) prices and potential outlets for molasses on the Community market;
  - (c) quotations or prices recorded for molasses on the world market, and
  - (d) the economic aspect of the proposed exports.

However, fixing at regular intervals may be discontinued in accordance with the procedure referred to in Article 42(2) if it is found that no surplus molasses is available within the Community for export at world market prices. In this event, no refund shall be granted.

2. In special circumstances the amount of the refund may be fixed by tendering procedure for specific quantities and specific areas of the Community. The purpose of the tendering procedure shall be to determine the amount of the refund.

The competent authorities of the Member States concerned shall organise a tendering procedure under an authorisation laying down the rules to be followed, which must guarantee equal access for all persons established within the Community.

#### Article 30

1. The basic amount of the refund shall be fixed each month for undenatured products as listed in Article 1(1)(d) exported without further processing. However, fixing at regular intervals may be discontinued in accordance with the procedure referred to in Article 42(2) if the regular fixing of the refund on white sugar without further processing is suspended. In this event, no refund shall be granted.
2. The basic amount of the refund on the products referred to in paragraph 1, with the exception of sorbose, shall be equal to one-hundredth of an amount obtained by taking account of:
  - (a) the difference between the intervention price for white sugar for the Community area with the largest surplus for the month for which the basic amount is fixed, and the quotations or prices for white sugar recorded on the world market;
  - (b) the need to strike a balance between:
    - the use of Community basic products in the manufacture of processed goods for export to third countries, and
    - the use of third-country products brought in under inward-processing arrangements.
3. In the case of sorbose, the basic amount of the refund shall be equal to the basic amount of the refund less one-hundredth of the production refund in force.
4. Application of the basic amount of the refund may be restricted to specific products listed in Article 1(1)(d).

*Article 31*

To the extent necessary for the proper functioning of the common organisation of the markets in the sugar sector, the Commission may fully or partially prohibit the use of inward-processing arrangements for the products listed in Article 1(1) in accordance with the procedure referred to in Article 42(2).

*Article 32*

1. The general rules for interpreting the combined nomenclature and the special rules for its application shall apply to the tariff classification of products covered by this Regulation; the tariff nomenclature resulting from applying this Regulation shall be included in the common customs tariff.

2. Save as otherwise provided for in this Regulation or by a rule adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- (a) the levying of any charge having equivalent effect to a customs duty;
- (b) the application of any quantitative restriction or measure having equivalent effect.

*Article 33*

1. Where the price of sugar on the world market is higher than the intervention price, an export levy may be applied to the sugar concerned. Such a levy shall be compulsory when the cif price of white or raw sugar is higher than the intervention price plus 10 %.

The export levy may be determined by tendering procedure. Otherwise, the levy to be charged shall be that applicable on the day of export.

2. Where the cif price of white or raw sugar is higher than the intervention price plus 10 %, the Council may decide, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 37(2) of the Treaty, to grant an import subsidy for the product in question.

Where it is established that supplies available within the Community are not sufficient to:

- (a) meet requirements within the Community

or

- (b) meet the requirements of a major consumption region in the Community,

then the Council shall decide, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 37(2) of the Treaty, to grant the import subsidy and lay down rules for implementing it. Those rules shall determine in particular the quantity of white or raw sugar to be covered by the subsidy, the duration of the subsidy and, where appropriate, the importing regions.

3. The following shall be laid down in accordance with the procedure referred to in Article 42(2):

- (a) the cif prices referred to in paragraphs 1 and 2,
- (b) export levies fixed by tendering procedure,
- (c) the other detailed rules for applying this Article.

In the case of the products referred to in Article 1(1)(b),(c),(d),(f),(g) and (h), provisions similar to those in paragraphs 1 and 2 may be adopted in accordance with the procedure referred to in Article 42(2).

4. The amounts, other than those referred to in paragraph 3, resulting from the application of this Article shall be fixed by the Commission.

*Article 34*

1. If imports or exports create or threaten to create a serious disturbance on the Community market in one or more of the products listed in Article 1 which is likely to jeopardise the achievement of the objectives set out in Article 33 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting in accordance with the procedure laid down in Article 37(2) of the Treaty, shall adopt the general rules for implementing this paragraph and shall define the cases and limits within which the Member States may take protective measures.

2. Should the situation referred to in paragraph 1 arise, the Commission shall decide upon the necessary measures, either at the request of a Member State or on its own initiative; the Member States shall be notified of the measures, which shall be immediately applicable. The Commission shall take a decision on any request from a Member State within three working days of receiving it.

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

4. This Article shall be applied in compliance with the Community's obligations resulting from agreements concluded under Article 300(2) of the Treaty.

## CHAPTER 2

### **Preferential import arrangements**

#### *Article 35*

Articles 36, 37 and 38 shall apply to cane sugar, hereinafter called 'preferential sugar', falling within CN code 1701, originating in the States listed in Annex VI and imported into the Community under:

- (a) Protocol 3 to Annex IV to the ACP-EC Partnership Agreement;
- (b) the Agreement on sugar cane between the European Community and the Republic of India.

#### *Article 36*

Where the quality of preferential sugar imported under Article 35 and purchased by intervention agencies or other agents appointed by the Community deviates from the standard quality, the guaranteed prices shall be adjusted by means of price increases and reductions.

#### *Article 37*

- 1. No import duty shall apply to imports of preferential sugar under Article 35.
- 2. Preferential sugar shall enjoy no derogations from the prohibitions referred to in Article 32(2).

#### *Article 38*

- 1. For the 2001/2002 to 2005/2006 marketing years, adjustment aid shall be granted as an intervention measure to the industry refining preferential raw cane sugar imported into the Community for that purpose under Article 35.
- 2. The aid referred to in paragraph 1 may be granted only for quantities eligible under Article 35, which are refined into white sugar at refineries as referred to in Article 7(4). The aid for producing the white sugar concerned shall be EUR 0,10 per 100 kilograms, expressed in white sugar.
- 3. During the period specified in paragraph 1, additional basic aid of EUR 0,10 per 100 kilograms, expressed as white sugar, shall be granted to enable refineries as referred to in Article 7(4) to refine raw cane sugar produced in the French overseas departments, with a view to restoring the price balance between that sugar and preferential sugar.
- 4. The adjustment aid and the additional aid may be adjusted to take account of economic trends in the sugar sector, particularly manufacturing and refining margins.

5. Under the second subparagraph of Article 7(4) and on terms to be determined, the aid scheme provided for in paragraphs 1 to 3 of this Article may be extended to raw sugar produced from beet harvested in the Community and refined in refineries as referred to in Article 7.

6. Detailed rules for applying this Article, in particular the adjustments referred to in paragraph 4, shall be adopted in accordance with the procedure referred to in Article 42(2).

#### Article 39

1. During the period referred to in Article 38(1), in order to ensure adequate supplies to Community refineries as referred to in Article 7(4), a reduced rate of duty, hereinafter called 'special duty', shall be levied on imports of raw cane sugar, hereinafter called 'special preferential sugar', originating in the States referred to in Article 35 and other States with whom agreements have been concluded, and subject to the conditions laid down therein, in particular the minimum purchase price to be paid by refiners.

2. For the purposes of paragraph 1 and without prejudice to paragraph 5, the presumed maximum supply needs per marketing year, expressed in white sugar, of the refining industries in:

|                          |                            |
|--------------------------|----------------------------|
| (a) Finland              | shall be 59 925 tonnes,    |
| (b) metropolitan France, | shall be 296 627 tonnes,   |
| (c) mainland Portugal,   | shall be 291 633 tonnes,   |
| (d) the United Kingdom   | shall be 1 128 581 tonnes. |

3. Without prejudice to paragraph 5, the quantities of raw cane sugar and raw beet sugar harvested in the Community available to the refining industry, with or without distinction of origin, shall be determined on the basis of an exhaustive Community forecast supply balance for raw sugar for each marketing year or part of a marketing year. This balance may be revised during the marketing year.

For the purposes of determining these quantities, the quantities of sugar from the French overseas departments and preferential sugar intended for direct consumption to be included in each balance shall be those determined for the 1994/1995 marketing year, less forecast local consumption in the French overseas departments during the marketing year concerned. If the balance shows that the amounts available will be insufficient to meet the maximum needs laid down in paragraph 2, the necessary measures shall be laid down to enable the Member States concerned to import the shortfall as special preferential sugar under the arrangements for imports at a special rate of duty provided for in the agreements referred to in paragraph 1.

4. Except in cases of *force majeure*, where the presumed maximum needs for a Member State as laid down in paragraph 2 or after revision under paragraph 5 are exceeded, an amount corresponding to the full rate of duty in force for the marketing year concerned shall be charged on a quantity equivalent to the excess, increased by the aid referred to in Article 38 and, where appropriate, by the highest additional rate of duty recorded during that marketing year.

However, in the case of preferential raw sugar and where a review has been carried out under paragraph 5, the quantities in excess of the revised presumed maximum needs, within the limit of the quantities laid down in paragraph 2, may be sold to intervention agencies on the terms stipulated in Article 36 if they cannot be marketed in the Community.

5. Where Article 10(3), (4), (5) and (6) apply, the sum of the presumed maximum needs referred to in paragraph 2 of this Article shall be reduced for the marketing year concerned by a quantity equal to the sum of the special preferential sugars needed to cover the presumed maximum needs determined under paragraph 3 of this Article, and reduced by the same percentage reduction as was applied to the sum of the basic quantities A for Community sugar under Article 10(5).

This reduction in the maximum needs shall be apportioned between the Member States concerned to reflect the ratio between the quantity fixed for each in paragraph 2 and the sum of the quantities fixed in that paragraph.

6. Detailed rules for applying this Article, in particular for implementing and administering the agreements referred to in paragraph 1, shall be adopted in accordance with the procedure referred to in Article 42(2).

### TITLE III

## GENERAL PROVISIONS

#### *Article 40*

Any measures needed to prevent the market in sugar being disturbed by changes in price levels at the changeover from one marketing year to the next or during a single marketing year may be adopted in accordance with the procedure referred to in Article 42(2).

#### *Article 41*

Member States and the Commission shall communicate to each other the information necessary for implementing this Regulation.

Rules for the communication and dissemination of such information shall be adopted in accordance with the procedure referred to in Article 42(2).

#### *Article 42*

1. The Commission shall be assisted by a Management Committee for Sugar (hereinafter referred to as 'the Committee').
2. Where reference is made to this Article, Articles 4 and 7 of Decision 1999/468/EC shall apply. The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.
3. The Committee shall adopt its rules of procedure.

#### *Article 43*

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

#### *Article 44*

Goods listed in Article 1(1) which are manufactured or obtained from products not covered by Article 23(2) and Article 24 of the Treaty shall not be admitted to free circulation within the Community.

#### *Article 45*

Save as otherwise provided in this Regulation, Articles 87, 88 and 89 of the Treaty shall apply to the production of and trade in the products listed in Article 1(1).

#### *Article 46*

1. Italy shall be authorised to grant adjustment aid, which may not exceed EUR 5,43 per 100 kilogrammes of white sugar to sugar beet producers and, where appropriate, to sugar producers for the production of the corresponding quantity of sugar effected within the A and B quotas of each sugar-producing undertaking, in the following regions: Abruzzi, Molise, Apulia, Sardinia, Campania, Basilicata, Calabria and Sicily.
2. However, where this is necessitated by exceptional requirements connected with the sugar industry restructuring plans under way in these regions, Italy may, according to the marketing year in question, adjust the aid referred to in paragraph 1. In the application of Articles 87, 88 and 89 of the Treaty, the Commission shall in particular determine whether such aid is in conformity with the restructuring plans.

3. Spain shall be authorised to grant adjustment aid, which may not exceed EUR 7,25 per 100 kilogrammes of white sugar to sugar cane producers located in its territory for the production of the corresponding quantity of sugar effected within the A and B quotas of each undertaking producing sugar from cane.
4. Portugal shall be authorised to grant adjustment aid, which may exceed EUR 3,11 per 100 kilogrammes of white sugar to sugar beet producers located in its mainland territory for the production of the corresponding quantity of sugar effected within the A and B quotas of each sugar-producing undertaking.
5. Finland shall be authorised to grant a flat-rate reimbursement of storage costs for C sugar carried over in accordance with Article 14. The detailed rules for implementing this paragraph shall be adopted in accordance with the procedure referred to in Article 42(2).
6. The Member States concerned shall submit to the Commission the measures taken for each marketing year pursuant to paragraphs 1 to 5.
7. This Article shall apply for the marketing years 2001/2002 to 2005/2006.

#### *Article 47*

1. Where agricultural activity within the scope of this Regulation is concerned, Member States shall adopt the environmental measures they consider to be appropriate in view of the situation of the agricultural land used and which reflect the potential environmental effects of those activities. Such measures shall be laid down in accordance with environmental requirements taking account of the topographical and soil and climate conditions in the areas in question, the management of irrigation water and rotation systems and cultivation methods likely to improve the environment. If necessary, Member States shall, while respecting Articles 87, 88 and 89 of the Treaty, support agricultural producers in the sugar sector by means of research programmes intended to develop more environment-friendly cultivation methods, and by means of the publication of the results of such research programmes.
2. Member States shall lay down suitable penalties proportionate to the gravity of the environmental consequences of failure to comply with the environmental requirements referred to in paragraph 1.
3. Member States shall submit to the Commission, by 30 June 2002, a report on the environmental situation of agricultural production in the sugar sector and the impact of national measures adopted under paragraphs 1 and 2.

#### TITLE IV

#### TRANSITIONAL AND FINAL PROVISIONS

#### *Article 48*

The balance remaining from the compensation system for storage costs applied during the 2000/2001 marketing year under Regulation (EC) No 2038/1999 shall be charged, if negative, or credited, if positive, under the system referred to in Articles 15 and 16 of this Regulation for the 2001/2002 marketing year.

In the case of sugar in storage at 30 June 2001 under the compensation system for storage costs provided for in Regulation (EC) No 2038/99, the date of disposal for the purposes of collecting the storage levy shall be 30 June 2001.

#### *Article 49*

Regulations (EC) No 2038/1999, (EEC) No 206/68, (EEC) No 431/68, (EEC) No 447/68, (EEC) No 2049/69, (EEC) No 793/72, (EEC) No 741/75, (EEC) No 1358/77, (EEC) No 1789/81, (EEC) No 193/82, (EEC) No 1010/86 and (EEC) No 2225/86 are hereby repealed.

References to Regulations (EC) No 2038/1999, (EEC) No 206/68, (EEC) No 431/68, (EEC) No 793/72, (EEC) No 741/75 and (EEC) No 193/82 shall be understood as references to this Regulation and are to be read in conjunction with the correlation table in Annex VII.

*Article 50*

1. The Commission may adopt any transitional measures required to ensure a smooth changeover from the arrangements in force for the 2000/2001 marketing year to those introduced by this Regulation in accordance with the procedure referred to in Article 42(2). Such measures may derogate from this Regulation.
2. On the basis of Commission studies on the market situation, all aspects of the quota system, prices, relations within the trade and an analysis of the increase in competition resulting from the European Union's international commitments, the Commission shall submit a report at the beginning of 2003, together with any appropriate proposals.

*Article 51*

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

It shall apply from the 2001/2002 marketing year.

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

Done at Luxembourg, 19 June 2001.

*For the Council*

*The President*

M. WINBERG

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## ANNEX I

**Point I****STANDARD QUALITY FOR WHITE SUGAR**

1. White sugar of the standard quality shall have the following characteristics:
  - (a) be of sound, genuine and merchantable quality; dry, in homogeneous granulated crystals, free-flowing,
  - (b) minimum polarisation 99,7°,
  - (c) maximum moisture content 0,06 %,
  - (d) maximum invert sugar content: 0,04 %,
  - (e) the number of points determined under paragraph 2 shall not exceed a total of 22, nor:
    - 15 for the ash content,
    - 9 for the colour type, determined using the method of the Brunswick Institute of Agricultural Technology, hereinafter called the 'Brunswick method',
    - 6 for the colouring of the solution, determined using the method of the International Commission for Uniform Methods of Sugar Analysis, hereinafter called the 'ICUMSA method'.
2. One point shall correspond to:
  - (a) 0,0018 % of ash content determined using the ICUMSA method at 28° Brix,
  - (b) 0,5 units of colour type determined using the Brunswick method,
  - (c) 7,5 units of colouring of the solution determined using the ICUMSA method.
3. The methods for determining the factors referred to in paragraph 1 shall be those used for determining those factors under the intervention measures.

**Point II****STANDARD QUALITY FOR RAW SUGAR**

1. Raw sugar of the standard quality shall be sugar with a yield of 92 %.
2. The yield of raw beet sugar shall be calculated by subtracting from the degree of polarisation of that sugar:
  - (a) its percentage ash content multiplied by four,
  - (b) its percentage invert sugar content multiplied by two,
  - (c) the number 1.
3. The yield of raw cane sugar shall be calculated by subtracting 100 from the degree of polarisation of that sugar multiplied by two.

## ANNEX II

**STANDARD QUALITY FOR SUGAR BEET**

Standard quality beet shall:

- (a) be of sound and fair merchantable quality;
- (b) have a sugar content of 16 % at the reception point.

## ANNEX III

## PURCHASE TERMS FOR BEET

## Point I

For the purposes of this Annex:

1. Contracting Parties means:
  - (a) sugar manufacturers, hereinafter called 'manufacturers',
  - (b) beet sellers, hereinafter called 'sellers';
2. contract means a contract concluded between a seller and a manufacturer for the delivery of beet for the manufacture of sugar;
3. agreement within the trade means:
  - (a) an agreement concluded at Community level, prior to the conclusion of any contract, between a group of national manufacturers' organisations on the one hand and a group of national sellers' organisations on the other;
  - (b) an agreement concluded, prior to the conclusion of any contract, between manufacturers or a manufacturers' organisation recognised by the Member State concerned on the one hand and a sellers' association recognised by the Member State concerned on the other;
  - (c) the law on companies and the law on cooperatives, in so far as they govern the delivery of sugar beet by the share holders or members of a company or cooperative manufacturing sugar;
  - (d) in the absence of any agreement as referred to in (a) or (b), the arrangements existing before the conclusion of any contract between manufacturers and sellers, provided the sellers accepting the arrangement supply at least 60 % of the total beet bought by the manufacturer for the manufacture of sugar in one or more factories.

## Point II

1. Contracts shall be made in writing for a specified quantity of beet.
2. Contracts shall specify whether an additional quantity of beet may be supplied, and under what terms.

## Point III

1. This Point shall apply only where Article 19 of this Regulation applies.
2. Contracts shall indicate the purchase prices for the quantities of beet referred to in the first part of Article 19(1) of this Regulation. In the case of the quantities referred to at (a) and (b) of Article 19(1), those prices may not be lower than the minimum price for beet referred to in Article 4 of this Regulation applicable in the production area concerned.
3. Contracts shall lay down a fixed sugar content for beet. They shall include a conversion scale showing the different sugar contents and factors for converting the quantities of beet supplied into quantities corresponding to the sugar content shown in the contract.

The scale shall be based on the yields corresponding to the different sugar contents.

4. Where a seller has signed a contract with a manufacturer for the delivery of beet as referred to in the first part of Article 19(1) of this Regulation and in (a) thereof, all deliveries by that seller, converted under paragraph 3 above, shall be considered to be deliveries within the meaning of the first part of the abovementioned Article 19(1) and (a) thereof up to the quantity of beet specified in the contract.
5. Manufacturers producing a quantity of sugar lower than their basic quota from beet for which they have signed pre-sowing delivery contracts under the first part of Article 19(1) and (a) thereof shall distribute the quantity of beet corresponding to any additional production up to the amount of their basic quota among the sellers with whom they have signed pre-sowing delivery contracts within the meaning of the first part of the abovementioned Article 19(1) and (a) and (b) thereof.

Agreements within the trade may derogate from this provision.

6. In no case may a manufacturer require a seller to reimburse the production levy for beet delivered by the seller under a contract concluded under the first part of Article 19(1) of this Regulation and (a) thereof.

**Point IV**

1. Contracts shall contain provisions concerning the staggering and normal duration of beet deliveries.
2. Such provisions shall be those applicable during the 2000/2001 marketing year, taking account of the level of actual production; agreements within the trade may derogate therefrom.

**Point V**

1. Contracts shall provide for beet collection centres.
2. Where sellers and manufacturers have already signed a contract for the 2000/2001 marketing year, the collection centres agreed upon by them for deliveries during that marketing year shall remain in operation; agreements within the trade may derogate from this provision.
3. Contracts shall provide that transport costs from the collection centres are to be borne by the manufacturer subject to special agreements based on local rules or usages in operation before the 2001/2002 marketing year.
4. However, in Denmark, Spain, Finland, Greece, Ireland, Portugal and the United Kingdom, where beet is delivered free-at-factory, contracts shall require manufacturers to contribute to transport costs and shall stipulate the percentage or amounts.

**Point VI**

1. Contracts shall provide for reception points for beet.
2. Where sellers and manufacturers have already signed a contract for the 2000/2001 marketing year, the reception points agreed upon by them for deliveries during that marketing year shall remain in operation; agreements within the trade may derogate from this provision.

**Point VII**

1. Contracts shall provide for the sugar content to be determined using the polarimetric method. A sample of the beet shall be drawn at the time of reception.
2. Agreements within the trade may provide for samples to be drawn at another stage.

In such cases, the contract shall provide for a correction to compensate for any drop in the sugar content between the reception and the drawing of the sample.

**Point VIII**

Contracts shall provide for gross weight, tare and sugar content to be determined using one of the following procedures:

- (a) jointly, by the manufacturer and the beet producers' trade organisation, if an agreement within the trade so provides;
- (b) by the manufacturer, under the supervision of the beet producers' trade organisation;
- (c) by the manufacturer, under the supervision of an expert recognised by the Member State concerned, provided the seller defrays the costs thereof;
- (d) by the manufacturer, if local rules or usages in force before the 2000/2001 marketing year so provide.

**Point IX**

1. Contracts shall provide for an additional price to be paid to the seller where:
  - (a) there is an increase in the price for beet at the changeover from one marketing year to the next, and
  - (b) the increase in the intervention price for sugar resulting from the increase in the price for beet is not made subject to a levy for stocks held at the time of the changeover.

The additional price shall be calculated per 100 kilograms of white sugar by multiplying the increase referred to in the first subparagraph under (b) by a coefficient equal to the ratio of

- the quantities of sugar produced within the A and B quota not carried forward under Article 14 of this Regulation in stock at the time of transition
- and
- the quantities of sugar produced by manufacturer during the previous marketing year within their maximum quota not carried forward under Article 14 of this Regulation.

2. Agreements within the trade may derogate from paragraph 1.

Contracts shall mention the possibility of such derogation.

#### **Point X**

1. Contracts shall require manufacturers to do one or more of the following for the whole quantity of beet delivered; when parts of that quantity are subject to different treatment, the contract shall impose more than one such obligation:
  - (a) to return the fresh pulp from the tonnage of beet delivered free of charge to the seller, ex factory;
  - (b) to return part of that pulp dried or dried and molassed, free of charge to the seller, ex factory;
  - (c) to return the pulp, dried, to the seller, ex factory; in this case, the manufacturer may require the seller to pay the drying costs;
  - (d) to pay the seller compensation which takes account of the possibilities of selling the pulp concerned.
2. Agreements within the trade may provide for pulp to be delivered at a stage other than that referred to in paragraph 1(a), (b) and (c).

#### **Point XI**

1. Contracts shall fix the time limits for any advance payments and for payment of the purchase price for beet.
2. Such time limits shall be those valid during the 2000/2001 marketing year; agreements within the trade may derogate from this provision.

#### **Point XII**

Where contracts lay down rules covering matters which are dealt with in this Annex, or where they contain provisions governing other matters, their provisions and effects must not conflict with this Annex.

#### **Point XIII**

1. Agreements within the trade as described in Point I(3)(b) shall contain arbitration clauses.
2. Where agreements within the trade at Community, regional or local level lay down rules covering matters which are dealt with in this Regulation, or where they contain provisions governing other matters, their provisions and effects must not conflict with this Annex.
3. Such agreements may lay down, in particular:
  - (a) rules on the distribution to sellers of quantities of beet which the manufacturer decides to buy prior to sowing, for the manufacture of sugar within the limits of the basic quota;
  - (b) rules on distribution as referred to in Point III(5);
  - (c) the conversion scale referred to in Point III(3);
  - (d) rules on the choice and supply of seeds of the varieties of beet to be produced;
  - (e) the minimum sugar content of beet to be delivered;
  - (f) a requirement for consultation between the manufacturer and the sellers' representatives before the starting date of beet deliveries is fixed;
  - (g) the payment of premiums to sellers for early or late deliveries;
  - (h) details of:
    - the part of the pulp referred to in Point X(1)(b),
    - the costs referred to in Point X(1)(c),
    - the compensation referred to in Point X(1)(d);
  - (i) the removal of pulp by the seller;
  - (j) rules on how any difference between the intervention price and the actual selling price of the sugar is to be allocated between the manufacturer and sellers.

#### **Point XIV**

Where there is no set agreement within the trade as to how the quantities of beet intended for the manufacture of sugar within the basic quota limits which the manufacturer offers to buy before sowing should be allocated among the sellers, the Member State concerned may itself lay down rules for such allocation.

These rules may also grant to traditional sellers of beet to cooperatives delivery rights other than those which they would enjoy if they belonged to such cooperatives.

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## ANNEX IV

## DETAILED RULES ON TRANSFERS OF QUOTAS BETWEEN FIRMS

## Point I

Member States shall adopt such measures as they deem necessary to take account of the interests of sugar beet and cane producers when quotas are allocated to a sugar-producing undertaking which has more than one factory.

## Point II

1. Without prejudice to paragraph 2, in the event of the merger or transfer of sugar-producing undertakings or the transfer of sugar factories, the A and B quotas shall be adjusted as follows:
  - (a) in the event of the merger of sugar-producing undertakings, the Member States shall allocate to the undertaking resulting from the merger an A quota and a B quota equal respectively to the sum of the A quotas and the sum of the B quotas allocated prior to the merger to the sugar-producing undertakings concerned;
  - (b) in the event of the transfer of a sugar-producing undertaking, the Member State shall allocate the A quota and the B quota of the transferred undertaking to the transferee undertaking for the production of sugar or, if there is more than one transferee undertaking, the allocation shall be made in proportion to the sugar production absorbed by each of them;
  - (c) in the event of the transfer of a sugar factory, the Member State shall reduce the A quota and the B quota of the undertaking transferring ownership of the factory and shall increase the A quota and the B quota of the sugar-producing undertaking or undertakings purchasing the factory in question by the quantity deducted in proportion to the production absorbed.
2. Where a number of the sugar-beet or cane producers directly affected by one of the operations referred to in paragraph 1 expressly show their willingness to supply their beet or cane to a sugar-producing undertaking which is not party to those operations, the Member State may make the allocation on the basis of the production absorbed by the undertaking to which they intend to supply their beet or cane.
3. In the event of closure, in circumstances other than those referred to in paragraph 1, of:
  - (a) a sugar-producing undertaking,
  - (b) one or more factories of a sugar-producing undertaking,the Member State may allocate the part of the quotas involved in such closure to one or more sugar-producing undertakings.

Also in the case referred to in (b) in the preceding subparagraph, where some of the producers concerned expressly show their willingness to supply their beet or cane to a given sugar-producing undertaking, the Member State may allocate the proportion of the quotas corresponding to the beet or cane concerned to the undertaking which they intend to supply with those products.
4. Where the derogation referred to in Article 19(3) of this Regulation is invoked, the Member State concerned may require the beet producers and sugar manufacturers concerned by that derogation to include in their agreements within the trade special clauses enabling the Member State to apply paragraphs 2 and 3, where applicable.
5. In the event of the lease of a factory belonging to a sugar-producing undertaking, the Member State may reduce the quotas of the undertaking offering the factory for rent and allocate the portion by which the quota was reduced to the undertaking which rents the factory in order to produce sugar in it.

If the lease is terminated during the period of three marketing years referred to in Point V(d), the adjustment of quotas under the preceding subparagraph shall be cancelled retroactively by the Member State as at the date on which the lease took effect. However, if the lease is terminated by reason of force majeure, the Member State shall not be bound to cancel the adjustment.

6. Where a sugar-producing undertaking can no longer ensure that it meets its obligations under Community regulations towards the sugar-beet or cane producers concerned, and where that situation has been ascertained by the competent authorities of the Member State concerned, the latter may allocate for one or more marketing years the part of the quotas involved to one or more sugar-producing undertakings in proportion to the production absorbed.

7. Where a Member State grants a sugar-producing undertaking price and outlet guarantees for processing sugar beet into ethyl alcohol, the Member State may, in agreement with that undertaking and the beet producers concerned, allocate all or part of the sugar-production quotas to one or more other undertakings for one or more marketing years.

#### **Point III**

In the event of the merger or transfer of isoglucose-producing undertakings, the transfer of an isoglucose-producing factory or the closure of one or more isoglucose-producing undertakings or one or more factories belonging to such an undertaking, the Member State may allocate the quotas involved for the production of isoglucose to one or more other undertakings, whether or not they have a production quota.

#### **Point IV**

The measures taken pursuant to Points II and III may take effect only if:

- (a) the interests of each of the parties concerned are taken into consideration  
and
- (b) the Member State concerned considers that they are likely to improve the structure of the beet, cane and sugar-manufacturing sectors  
and
- (c) they concern undertakings established in the same region within the meaning of Article 11(2) of this Regulation.

#### **Point V**

For the purposes of this Annex:

- (a) 'merger of undertakings' means the consolidation of two or more undertakings into a single undertaking;
- (b) 'transfer of an undertaking' means the transfer or absorption of the assets of an undertaking having quotas to one or more undertakings;
- (c) 'transfer of a factory' means the transfer of ownership of a technical unit, including all the plant required to manufacture the product concerned, to one or more undertakings, resulting in the partial or total absorption of the production of the undertaking making the transfer;
- (d) 'lease of a factory' means the leasehold contract of a technical unit including all the plant required for the manufacture of sugar, with a view to its operation, concluded for a period of at least three consecutive marketing years, which the parties agree not to terminate before the end of the third marketing year, with an undertaking which is established in the same region, within the meaning of Article 11(2) of this Regulation, as the factory concerned, if, after the lease takes effect, the undertaking which rents the factory can be considered a solely sugar-producing undertaking for its entire production.

#### **Point VI**

The measures referred to in Points II and III shall take effect when the closure of the undertaking or factory, the merger or transfer occurs:

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

#### **Point VII**

Where a Member State applies Article 12(2) of this Regulation, it shall allocate the adjusted quotas before 1 March with a view to applying them in the following marketing year.

#### **Point VIII**

Where Points II and III are applied, Member States shall inform the Commission of the adjusted A and B quotas not later than 15 days after expiry of the periods referred to in Point VI.

#### **Point IX**

For the purposes of transfers of quotas in Italy, Spain and the French overseas departments under restructuring plans as referred to in the second subparagraph of Article 12(2) of this Regulation, a group of sugar-producing undertakings having technical, economic and structural links and jointly and severally liable for their obligations under Community rules, particularly in respect of beet or cane growers, may be regarded as a sugar-producing undertaking.

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## ANNEX V

| CN Code                     | Description  |
|-----------------------------|--|
| ex 0403                     | Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa:   |
| 0403 10                     | – Yoghurt;   |
| 0403 10 51 to<br>0403 10 99 | Flavoured or containing added fruit, nuts or cocoa   |
| 0403 90                     | – Other;   |
| 0403 90 71 to<br>0403 90 99 | – – Flavoured or containing added fruit, nuts or cocoa   |
| ex 0710                     | – Vegetables (uncooked or cooked by steaming or by boiling in water), frozen:  |
| 0710 40 00                  | – Sweetcorn  |
| ex 0711                     | – Vegetables provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption:   |
| 0711 90                     | – Other vegetables; mixtures of vegetables:  |
|                             | – – Vegetables:  |
| 0711 90 30                  | – Sweetcorn  |
| 1702 50 00                  | Chemically pure fructose   |
| ex 1704                     | Sugar confectionery (including white chocolate), not containing cocoa, except liquorice extract of subheading No 1704 90 10  |
| 1806                        | Chocolate and other food preparations containing cocoa   |
| ex 1901                     | Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of heading Nos 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included: |
| 1901 10 00                  | – Preparations for infant use, put up for retail sale  |
| 1901 20 00                  | – Mixes and doughs for the preparations of bakers' wares of heading No 1905  |
| 1901 90                     | – Other:   |
|                             | – – Other:   |
| 1901 90 99                  | – – – Other  |
| ex 1902                     | Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:   |
| 1902 20                     | – Stuffed pasta, (whether or not cooked or otherwise prepared):  |
|                             | – – Other  |
| 1902 20 91                  | – – – Cooked   |
| 1902 20 99                  | – – – Other  |
| 1902 30                     | – Other pasta  |
| 1902 40                     | – Couscous:  |
| 1902 40 90                  | – – Other  |

| CN Code    | Description   |
|------------|---|
| 1904       | Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, cornflakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour and meal), pre-cooked, or otherwise prepared, not elsewhere specified or included: |
| ex 1905    | Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products:  |
| 1905 10 00 | – Crispbread  |
| 1905 20    | – Gingerbread and the like  |
| 1905 30    | – Sweet biscuits; waffles and wafers  |
| 1905 40    | – Rusks, toasted bread and similar toasted products   |
| 1905 90    | – Other:  |
|            | – – Other:  |
| 1905 90 40 | – – – Waffles and wafers with a water content exceeding 10 %  |
| 1905 90 45 | – – – Biscuits  |
| 1905 90 55 | – – – Extruded or expanded products, savoury or salted  |
| 1905 90 60 | – – – – With added sweetening matter  |
| 1905 90 90 | – – – – Other   |
| ex 2001    | Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid:  |
| 2001 90    | – Other:  |
| 2001 90 30 | – – Sweetcorn ( <i>Zea mays var. saccharata</i> )   |
| 2001 90 40 | – – Yams, sweet potatoes and similar edible parts of plants containing 5 % or more by weight of starch  |
| ex 2004    | Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading No 2006):   |
| 2004 10    | – Potatoes:   |
|            | – – Other:  |
| 2004 10 91 | – – – In the form of flour, meal or flakes  |
| 2004 90    | – Other vegetables and mixtures of vegetables:  |
| 2004 90 10 | – – Sweetcorn ( <i>Zea mays var. saccharata</i> )   |
| ex 2005    | Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading No 2006):   |
| 2005 20    | – Potatoes:   |
| 2005 20 10 | – – In the form of flour, meal or flakes  |
| 2005 80 00 | – Sweetcorn ( <i>Zea mays var. Saccharata</i> )   |
| ex 2101    | Extracts, essences and concentrates of coffee, tea or maté and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof:   |
|            | – Extracts, essences and concentrates of coffee and preparations with a basis of these extracts, essences or concentrates or with a basis of coffee:  |
|            | – – Preparations with a basis of these extracts, essences or concentrates or with a basis of coffee:  |
| 2101 12 98 | – – – Other:  |
|            | – Extracts, essences and concentrates, of tea or maté, and preparations with a basis of these extracts, essences or concentrates, or with a basis of tea or maté:   |
|            | – – Preparations  |
| 2101 20 98 | – – – Other   |
|            | – Roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof:  |
|            | – – Roasted chicory and other roasted coffee substitutes:   |



| CN Code                     | Description  |
|-----------------------------|--|
| 2101 30 19                  | --- Other  |
|                             | -- Extracts, essences and concentrates of roasted chicory and other roasted coffee substitutes:  |
| 2101 30 99                  | --- Other  |
| ex 2102                     | Yeasts (active or inactive); other single-cell micro-organisms, dead (but not including vaccines of heading No 3002); prepared baking powders:   |
| 2102 10                     | - Active yeasts:   |
|                             | -- Bakers' yeast:  |
| 2102 10 31                  | --- Dried  |
| 2102 10 39                  | --- Other  |
| 2105 00                     | Ice cream and other edible ice, whether or not containing cocoa:   |
| ex 2106                     | Food preparations not elsewhere specified or included:   |
| 2106 90                     | - Other:   |
| 2106 90 10                  | -- Cheese fondues  |
|                             | -- Other:  |
| 2106 90 92                  | ----- Containing no milk fats, sucrose, isoglucose, glucose or starch or containing, by weight, less than 1,5 % milk fat, 5 % sucrose or isoglucose, 5 % glucose or starch   |
| 2106 90 98                  | ----- Other  |
| 2202                        | Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading No 2009   |
| 2205                        | Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances:  |
| ex 2208                     | Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol.; spirits, liqueurs and other spirituous beverages:   |
| 2208 20                     | - Spirits obtained by distilling grape wine or grape marc:   |
| 2208 50 91 to<br>2208 50 99 | Geneva   |
| 2208 70                     | Liqueurs and cordials:   |
| 2208 90 41 to<br>2208 90 78 | - Other spirits and spirituous beverages:  |
| 2905 43 00                  | Mannitol   |
| 2905 44                     | D-glucitol (sorbitol)  |
| ex 3302                     | Mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used as raw materials in industry; other preparations based on odoriferous substances, of a kind used for the manufacture of beverages: |
| 3302 10                     | - Of a kind used in the food or drink industries:  |
|                             | -- Of a kind used in the drink industries:   |
|                             | --- Preparations containing all flavouring agents characterising a beverage:   |
|                             | ----- Other (of an actual alcoholic strength by volume not exceeding 0,5 %):   |
| 3302 10 29                  | Other  |
| ex Chapter 38               | Miscellaneous chemical products:   |
| 3824 60                     | Sorbitol other than that of subheading 2905 44   |

## ANNEX VI

## STATES, COUNTRIES AND TERRITORIES REFERRED TO IN ARTICLE 35

|               |                                  |
|---------------|----------------------------------|
| Barbados      | Malawi                           |
| Belize        | Uganda                           |
| Côte d'Ivoire | Democratic Republic of the Congo |
| Fiji          | Saint Kitts and Nevis — Anguilla |
| Guyana        | Suriname                         |
| Mauritius     | Swaziland                        |
| India         | Tanzania                         |
| Jamaica       | Trinidad and Tobago              |
| Kenya         | Zambia                           |
| Madagascar    | Zimbabwe                         |

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## ANNEX VII

## CORRELATION TABLE

| Regulation (EC) No 2038/1999 | This Regulation |
|------------------------------|-----------------|
| Article 1                    | Article 1       |
| Article 2(1)                 | Article 1(2)(m) |
| Article 2(2) and (3)         | Deleted         |
| Article 3                    | Article 2       |
| Article 4                    | Article 3       |
| Article 5                    | Article 4       |
| Article 6                    | Article 5       |
| Article 7                    | Article 6       |
| Article 8                    | Deleted         |
| Article 9                    | Article 7       |
| Article 10                   | Article 8       |
| Article 11                   | Article 9       |
| Article 12                   | Deleted         |
| Article 13                   | Article 22      |
| Article 14                   | Article 23      |
| Article 15                   | Article 24      |
| Article 16                   | Article 25      |
| Article 17                   | Article 26      |
| Article 18                   | Article 27      |
| Article 19                   | Article 28      |
| Article 20                   | Article 29      |
| Article 21                   | Article 30      |
| 1st indent of Article 22(1)  | Article 31      |
| Article 22(2) and (3)        | Deleted         |
| Article 23                   | Article 32      |
| Article 24                   | Article 33      |
| Article 25                   | Article 34      |
| Article 26(1)                | Article 10(1)   |
| Article 26(2)                | Article 11(3)   |

| Regulation (EC) No 2038/1999      | This Regulation |
|-----------------------------------|-----------------|
| Article 26(3)                     | Article 10(2)   |
| Article 26(4)                     | Article 11(3)   |
| 1st subparagraph of Article 26(5) | Article 10(3)   |
| 2nd subparagraph of Article 26(5) | Article 10(4)   |
| 3rd subparagraph of Article 26(5) | Article 10(5)   |
| 5th subparagraph of Article 26(5) | Article 10(6)   |
| Article 26(6)                     | Deleted         |
| 1st indent of Article 27(1)       | Article 11(1)   |
| Article 27(2)                     | Deleted         |
| Article 27(3)                     | Article 11(2)   |
| Article 27(4)                     | Deleted         |
| Article 27(5)                     | Deleted         |
| Article 27(6)                     | Article 11(4)   |
| Article 28                        | Deleted         |
| Article 29                        | Deleted         |
| Article 30                        | Article 12      |
| Article 31                        | Article 13      |
| Article 32                        | Article 14      |
| Article 33                        | Article 15      |
| Article 34                        | Article 16      |
| Article 35                        | Article 17      |
| Article 36                        | Article 18      |
| Article 37                        | Article 19      |
| Article 38                        | Article 20      |
| Article 39                        | Article 21      |
| Article 40                        | Article 35      |
| Article 41                        | Article 36      |
| Article 42                        | Article 37      |
| Article 43                        | Article 38      |
| Article 44                        | Article 39      |
| Article 45                        | Article 40      |
| Article 46                        | Article 41      |

| Regulation (EC) No 2038/1999 | This Regulation       |
|------------------------------|-----------------------|
| Article 47                   | Article 42(1)         |
| Article 48                   | Article 42(2) and (3) |
| Article 49                   | Article 43            |
| Article 50                   | Article 44            |
| Article 51                   | Article 45            |
| Article 52                   | Deleted               |
| Article 53                   | Article 46            |
| Article 54                   | Deleted               |
| Article 55                   | Article 49            |
| Article 56                   | Article 51            |
| Regulation (EEC) No 793/72   | This Regulation       |
| Article 1                    | Annex I, Point I      |
| Regulation (EEC) No 431/68   | This Regulation       |
| Article 1                    | Annex I, Point II     |
| Regulation (EEC) No 206/68   | This Regulation       |
| Article 1                    | Annex III, Point I    |
| Article 2                    | Annex III, Point II   |
| Article 3                    | Annex III, Point III  |
| Article 4                    | Annex III, Point IV   |
| Article 5                    | Annex III, Point V    |
| Article 6(1)                 | Annex III, Point VI   |
| Article 6(2)                 | Deleted               |
| Article 7                    | Annex III, Point VII  |
| Article 8                    | Annex III, Point VIII |
| Article 8a                   | Deleted               |
| Article 8b                   | Annex III, Point IX   |
| Article 9                    | Annex III, Point X    |
| Article 10                   | Annex III, Point XI   |
| Article 11                   | Deleted               |
| Article 12                   | Annex III, Point XII  |
| Article 13                   | Annex III, Point XIII |
| Regulation (EEC) No 741/75   | This Regulation       |

| Regulation (EC) No 2038/1999 | This Regulation      |
|------------------------------|----------------------|
| Article 1                    | Annex III, Point XIV |
| Regulation (EEC) No 193/82   | This Regulation      |
| Article 1                    | Annex IV, Point I    |
| Article 2                    | Annex IV, Point II   |
| Article 3                    | Annex IV, Point III  |
| Article 4                    | Annex IV, Point IV   |
| Article 5                    | Annex IV, Point V    |
| Article 6                    | Annex IV, Point VI   |
| Article 7                    | Annex IV, Point VII  |
| Article 8                    | Annex IV, Point VIII |
| Article 9                    | Annex IV, Point IX   |
| Annex I                      | Annex V              |
| Annex II                     | Annex VI             |
| Annex III                    | Annex VII            |

**COMMISSION REGULATION (EC) No 1261/2001****of 27 June 2001****laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards delivery contracts for beet and the price increases and reductions applicable to the price of beet**

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 <sup>(1)</sup>, and in particular Article 5(3) and Article 19(5) thereof,

Whereas:

- (1) Annex III to Regulation (EC) No 1260/2001 laying down outline provisions for contracts and inter-trade agreements on the purchase of beet defines the contracting parties as beet sellers on the one hand and sugar manufacturers on the other. A seller may sell either beet he has grown himself or beet he has bought from a grower. However, in view of the importance of contracts within the quota system, only a contract concluded between a manufacturer and a grower may be regarded as a delivery contract for the purpose of Article 19(2) of that Regulation.
- (2) Article 14(1) of Regulation (EC) No 1260/2001 provides that a manufacturer may carry forward part of his production to the following marketing year to be treated as part of that year's production. Consequently, for that marketing year delivery contracts at the minimum price for beet need only be concluded by the manufacturer in respect of the quantity of sugar within his basic quota which he has not yet produced. Therefore, the requirement referred to in Article 19(2) of that Regulation should be adjusted in the event of sugar being carried forward.
- (3) To ensure the proper working of the quota system the terms 'pre-sowing' and 'minimum price' as used in Article 19 of Regulation (EC) No 1260/2001 must be defined.
- (4) Article 5(1) of Regulation (EC) No 1260/2001 requires sugar manufacturers buying beet suitable for processing into sugar and intended for processing into sugar within the maximum quota to pay at least the minimum price

adjusted by price increases or reductions to allow for deviations from the standard quality.

- (5) The quality, and hence the value, of sugar beet largely depends on sugar content.
- (6) The most appropriate method of establishing the value of beet of a quality differing from the standard quality is to establish a scale of price increases and reductions expressed as a percentage of the minimum price.
- (7) Experience acquired by those concerned over a very long period has shown that they should be allowed to include in their contracts or agreements within the trade a definition of beet suitable for processing into sugar. A Community scale could be laid down for beet regarded throughout the Community as suitable for processing into sugar. Further reductions should be specified where this definition refers to a sugar content below the lowest sugar content on the Community scale. There should be provision for this definition to be drawn up by the Member States where the contracting parties fail to agree on a definition.
- (8) Largely because of climatic conditions, the industrial value of beet grown in Italy differs significantly from that of beet grown in the north of the Community. The above difference in the industrial value of the beet should therefore be taken into account.
- (9) The detailed rules of application laid down in this Regulation replace those laid down in Commission Regulation (EEC) No 246/68 of 29 February 1968 laying down detailed rules for differentiating between delivery contracts for beet <sup>(2)</sup>, Commission Regulation (EEC) No 2497/69 of 12 December 1969 on the price increases and reductions applicable to the price of beet <sup>(3)</sup> and Commission Regulation (EEC) No 2571/69 of 22 December 1969 on the reductions applicable to prices for sugar beet in Italy <sup>(4)</sup>. Those Regulations should, therefore, be repealed.
- (10) 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*

For the purposes of Article 19(2) of Regulation (EC) No 1260/2001, a contract concluded between a sugar manufacturer and a beet seller growing his own beet shall be regarded as a delivery contract.

<sup>(2)</sup> OJ L 53, 1.3.1968, p. 37.

<sup>(3)</sup> OJ L 316, 17.12.1969, p. 15.

<sup>(4)</sup> OJ L 321, 23.12.1969, p. 30.

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

*Article 2*

For the purposes of Article 19(2) of Regulation (EC) No 1260/2001, the basic quota of a manufacturer who carries forward part of his production to the following marketing year pursuant to Article 14 of that Regulation shall be reduced in respect of that year by the quantity carried forward.

*Article 3*

Only contracts concluded prior to sowing and  
— before 1 April in Italy and Greece, or  
— before 1 May in the other Member States  
shall be regarded as pre-sowing contracts.

*Article 4*

The minimum price referred to in Article 19(2) of Regulation (EC) No 1260/2001 shall be adjusted for each delivery of beet by applying the price increases and reductions fixed under Article 5 of this Regulation.

*Article 5*

1. The minimum price referred to in Article 5(1) of Regulation (EC) No 1260/2001 shall, for each 0,1 % of sucrose content, be:

- (a) increased by not less than:
  - (i) 0,9 % for contents exceeding 16 % but not exceeding 18 %,
  - (ii) 0,7 % for contents exceeding 18 % but not exceeding 19 %,
  - (iii) 0,5 % for contents exceeding 19 % but not exceeding 20 %;
- (b) reduced by not more than:
  - (i) 0,9 % for contents below 16 % but not below 15,5 %,
  - (ii) 1,0 % for contents below 15,5 % but not below 14,5 %.

The price for beet with a sucrose content in excess of 20 % shall not be less than the minimum price adjusted for beet with a 20 % sucrose content.

2. Notwithstanding paragraph 1, in Italy the percentage increases and reductions referred to in paragraph 1(a) and (b) shall be multiplied by a coefficient of 0,75.

*Article 6*

1. Contracts, and agreements within the trade within the meaning of Article 6 of Regulation (EC) No 1260/2001 may provide, compared to the increases and reductions referred to in Article 5, for:

- (a) further increases for sucrose contents above 20 %, and
- (b) further reductions for sucrose contents below 14,5 %.

These contracts and agreements may, in the case of beet with a sucrose content below 14,5 %, define beet suitable for processing into sugar if such contracts and agreements provide for further reductions for sucrose contents below 14,5 % but above the minimum sucrose content specified in that definition.

If the definition referred to in the second subparagraph is not included in the contracts and agreements, the Member State concerned may lay down that definition. In that case it shall, at the same time, fix the further reductions referred to in that subparagraph.

2. Notwithstanding paragraph 1, the minimum price referred to in Article 5(1) of Regulation (EC) No 1260/2001 shall be reduced in Italy by not more than 0,75 % for each 0,1 % of sucrose content where sucrose content is less than 14,5 %.

*Article 7*

Regulations (EEC) No 246/68, (EEC) No 2497/69 and (EEC) No 2571/69 are repealed.

*Article 8*

This Regulation shall enter into force on 1 July 2001.

It shall apply from the 2001/02 marketing year.

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

Done at Brussels, 27 June 2001.

*For the Commission*

Franz FISCHLER

*Member of the Commission*



**COMMISSION REGULATION (EC) No 1262/2001****of 27 June 2001****laying down detailed rules for implementing Council Regulation (EC) No 1260/2001 as regards the buying in and sale of sugar by intervention agencies**

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 market in the sugar sector <sup>(1)</sup>, and in particular Articles 7(5) and 9(3) thereof,

Whereas:

- (1) Article 7(1) of Regulation (EC) No 1260/2001 provides for intervention agencies to buy in certain sugars.
- (2) The implementation of Community intervention measures requires sugar to be taken over by the intervention agencies at a specified place. Accordingly, only sugar held in an approved warehouse when the offer is made may be taken over. The intervention system is confined to sugar manufactured from beet or cane harvested within the Community and the price and sales guarantee is restricted to manufacturers who have been allocated a basic quota.
- (3) Experience gained in the sugar sector has demonstrated the importance of free competition for the marketing of sugar. Free competition can be encouraged if independent traders participate in the marketing of sugar. The position of these undertakings in the sugar sector should therefore be strengthened. To that end, they should be allowed to offer Community sugar for intervention, so that they can effect their commercial transactions under normal conditions.
- (4) The intervention agencies are responsible for the goods bought in. They must therefore take all the necessary steps to ensure that, when sugar is offered for intervention, it is stored in the conditions required for keeping sugar in good condition. To ensure that the intervention arrangements function smoothly, therefore, it must be possible for sellers to conclude storage contracts with intervention agencies.
- (5) As regards the conditions for granting and withdrawing approval of warehouses, account should be taken of the requirements for keeping sugar in good condition and easily accessible for removal, the geographical location, and the capacity for removal from storage, and where appropriate bagging, guaranteed by applicants in respect of the sugar offered by them.
- (6) In order to grant and withdraw approval in an intervention system extended to specialised sugar traders, objective criteria must be laid down for assessing that activity,

in particular to define what constitutes a significant participation in the sugar trade. Member States should be allowed to impose further requirements if necessary and to withdraw approval if those requirements are not met. The Commission should be notified each time approval is granted, renewed or withdrawn.

- (7) Council Regulation (Euratom) No 3954/87 of 22 December 1987 laying down the maximum permitted levels of radioactive contamination of foodstuffs and of feedingstuffs following a nuclear accident or any other case of radiological emergency <sup>(2)</sup>, as amended by Regulation (Euratom) No 2218/89 <sup>(3)</sup>, sets out the procedure to be followed in cases of radiological emergency to determine the levels of radioactive contamination which foodstuffs and feedingstuffs must comply with if they are to be offered for sale. Consequently, agricultural products in which such radioactive contamination levels are exceeded may not be bought in.
- (8) Sugar with characteristics that will make it difficult to dispose of later and likely to deteriorate in storage should not be accepted for intervention.
- (9) To facilitate the administration of the intervention arrangements, sugar should be offered in lots. A lot, in particular its quantity, should therefore be defined.
- (10) The intervention agency must have all the facts needed to determine whether the offer meets all the requirements. To that end, the party making the offer must supply it with all the necessary information.
- (11) The intervention agency is entitled to make acceptance of the offer subject to the conclusion of a storage contract with the seller, should it consider this necessary. In the interests of uniformity, the principal terms which such contracts must contain, in particular their period of validity, should be laid down.
- (12) Approved silos and warehouses must offer optimal conditions for storing sugar. It is generally accepted that in the correct conditions sugar can be stored for around 12 months without risk of deterioration. Where a storage contract is concluded with the seller, it is therefore justified for the latter to remain responsible for the quality of the sugar concerned for a period not normally exceeding 12 months, irrespective of when ownership passes.

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

<sup>(2)</sup> OJ L 371, 30.12.1987, p. 11.

<sup>(3)</sup> OJ L 227, 22.7.1989, p. 1.

- (13) Article 7(5) of Regulation (EC) No 1260/2001 provides that the detailed implementing rules to be adopted must include scales of price increases and reductions to be applied to the intervention prices to take account of the quality of the sugar offered. For determining such scales, sugar must be classified according to its quality. This classification and the resulting price increases and reductions can be determined on the basis of the objective data generally used in commercial transactions.
- (14) To avoid any discrimination in the treatment of the parties concerned, and taking into account current administrative practices in the Member States, uniform conditions should be laid down for payment and collection of the goods, whether or not there is a storage contract, in particular as regards the time limits within which these operations are to be carried out.
- (15) It may be necessary for the sugar offered for intervention to be delivered in bags, depending on its subsequent destination. The intervention agency should therefore be able to require certain forms of packing generally used in the trade, on condition that it bears the cost thereof, to be fixed at a flat rate.
- (16) When an intervention agency requires certain forms of packing, the flat rate it pays relates to bags in perfect condition. Where a storage contract is concluded, therefore, the rate for the packing costs should be set according to the condition of the bags.
- (17) Commission Regulation (EEC) No 1265/69 of 1 July 1969 establishing methods for determining the quality of sugar bought in by intervention agencies<sup>(1)</sup>, as amended by Regulation (EEC) No 1280/71<sup>(2)</sup>, is confined to the technical aspects of those methods. Moreover, since those methods cannot provide strictly accurate results, a margin of error must be allowed for. In addition, suitable arbitration procedures should be introduced for settling any disputes arising from the comparison of conflicting analysis results.
- (18) Intervention is designed to allow products to be withdrawn temporarily from a market suffering imbalance with a view to their resale as soon as the market situation has improved. Accordingly, products offered for intervention must be suitable for human or animal consumption, as the case may be.
- (19) Sugar held by intervention agencies must be sold without discrimination between Community buyers and on the most economic terms possible. In general, these objectives can be attained using the tendering system. To prevent sugar being disposed of when market conditions are unfavourable, invitations to tender should be subject to prior authorisation. It is preferable in certain circumstances to make use of procedures other than tendering.
- (20) In view of the changes to the rules governing intervention, new detailed rules should be laid down for the sale by tender of sugar by intervention agencies.
- (21) To ensure that all interested parties in the Community receive equal treatment, invitations to tender issued by the intervention agencies must conform to uniform rules. In this connection, it is necessary to ensure that the sugar is actually put to the intended use.
- (22) Certain special rules are needed to take account of the specific features of the sugar sector. In particular, so that the greatest possible number of potential tenderers can participate, it should be possible to fix a maximum quantity which each tenderer may offer to buy. Furthermore, in view of the frequent fluctuations in sugar prices and quotations, tenderers should not be bound by their tenders if the award is made after the date and time specified by them.
- (23) For the purpose of determining storage costs, in particular, it is essential to specify when ownership of the sugar is transferred.
- (24) The criteria used to determine the grade of the white sugar and the yield of the raw sugar sold should be the same as those applied when sugar is bought in by intervention agencies. Equal treatment for all interested parties can be ensured only by introducing uniform and precisely defined provisions for adjusting the selling price, the denaturing premium or the export refund, as the case may be, and correcting export licences where the sugar is found to be of a quality other than that indicated in the invitation to tender.
- (25) The detailed implementing rules laid down in this Regulation replace those in Commission Regulations (EEC) No 258/72 of 3 February 1972 laying down detailed rules concerning the sale by tender of sugar by intervention agencies<sup>(3)</sup>, as amended by Regulation (EC) No 260/96<sup>(4)</sup>, and (EEC) No 2103/77 of 23 September 1977 laying down detailed rules for the buying in by intervention agencies of sugar manufactured from beet and cane harvested in the Community<sup>(5)</sup>, as last amended by Regulation (EC) No 260/96 which must therefore be repealed.

<sup>(1)</sup> OJ L 163, 4.7.1969, p. 1.

<sup>(2)</sup> OJ L 133, 19.6.1971, p. 34.

<sup>(3)</sup> OJ L 31, 4.2.1972, p. 22.

<sup>(4)</sup> OJ L 34, 13.2.1996, p. 16.

<sup>(5)</sup> OJ L 246, 27.9.1977, p. 12.

- (26) 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

### BUYING IN

#### CHAPTER I

### General provisions

#### Article 1

1. The intervention agency shall buy in the sugar only if it is offered by:

- (a) the beneficiary of a basic quota;
- (b) a specialist sugar trader who is approved by the Member State on whose territory he is established.

2. The offer shall be made in writing to the intervention agency of the sugar-producing Member State on whose territory the sugar offered is located at the time of the offer.

3. Only sugar under quota which at the time of the offer is located in an approved store may be taken over.

Approval shall be given by the competent authority of the Member State in question.

#### CHAPTER II

### Approvals

#### Article 2

1. Without prejudice to paragraph 2 of this Article, the approval provided for in Article 1(3) may be given only for silos and warehouses which:

- (a) meet the requirements for keeping sugar in good condition;
- (b) are situated in a place which provides the transport facilities necessary for removal of the sugar;
- (c) are situated within the precincts of a sugar refinery or in a sugar-producing area.

2. Approval of silos and warehouses as referred to in paragraph 1 shall be given only for:

- (a) a total quantity, in the case of silos for bulk storage equipped with bagging facilities, not exceeding 50 times the daily capacity for bagging, using bags as specified in Article 18(2), and removal that the applicant undertakes to place at the disposal of the intervention agency concerned for the removal of the sugar;

- (b) a total quantity, in the case of warehouses for the storage of sugar in bags, not exceeding 50 times the daily removal capacity for sugar packed in bags as specified in Article 18(2) that the applicant undertakes to place at the disposal of the intervention agency concerned for the removal of the sugar;

- (c) a total quantity, in the case of silos and warehouses for the bulk storage of raw sugar, not exceeding 50 times the daily removal capacity for bulk sugar that the applicant undertakes to place at the disposal of the intervention agency concerned for the removal of the sugar.

3. Approval shall be given at the request of the party concerned for any silo or warehouse which, in the opinion of the intervention agency, satisfies the conditions set out in paragraph 1. Approval may, however, be restricted to silos or warehouses which have already been used for sugar storage.

The approval shall indicate, in particular, the total quantity for which it is given, the daily removal capacity, and, where applicable, the bagging capacity as referred to in paragraph 2(a).

4. Approval shall be withdrawn when any of the conditions set out in paragraph 1 or 2 are no longer satisfied.

5. Approval shall be given or withdrawn by the intervention agency.

#### Article 3

1. A 'specialised sugar trader' within the meaning of Article 1(1)(b) is a person:

- (a) who engages in wholesale sugar trading as one of their principal activities and who buys, or may be regarded as likely to buy, a minimum of 10 000 tonnes of Community sugar per marketing year; and
- (b) who is not engaged in the retail sale of sugar.

2. Subject to paragraphs 3 to 6, the approval provided for in Article 1(1)(b) shall be given by the Member State concerned to all applicants who satisfy, or are considered capable of satisfying, the conditions laid down in paragraph 1 of this Article for the marketing year concerned.

3. Without prejudice to paragraph 5, approval shall be given for a specified marketing year.

It shall be renewed for the following marketing year if the applicant can continue to be regarded as a specialised trader for that year.

4. The Member States may impose additional requirements for the grant of approval.

Approval may be withdrawn if it is found that the person concerned no longer satisfies such additional requirements or is no longer capable of satisfying them.

5. Approval shall be withdrawn if it is found that the person concerned no longer satisfies, or is no longer capable of satisfying, any of the conditions laid down in paragraph 1.

Approval may be granted, renewed or withdrawn during the course of a marketing year, but without retroactive effect.

6. Approval granted, renewed or withdrawn under this Article shall be notified in writing to the person concerned after having been notified to the Commission by the Member State concerned.

### CHAPTER III

## Offers

### Article 4

1. Sugar offered to intervention shall meet the following requirements:

- (a) it must have been produced within a quota during the marketing year in which the offer is made.

However, sugar produced in the marketing year immediately preceding that of the offer may be offered:

- until the following 31 August, in Italy,
- until the following 30 September in the other European regions of the Community;

- (b) it shall be in crystal form.

2. White sugar offered to intervention shall, in addition to meeting the conditions laid down in paragraph 1, be of sound and fair marketable quality, free-flowing, with a moisture content not exceeding 0,06 %.

3. Raw sugar offered to intervention shall, in addition to meeting the conditions laid down in paragraph 1, be of sound and fair marketable quality with a yield, calculated in accordance with point II of Annex I to Regulation (EC) No 1260/2001, of not less than 89 %.

In addition:

- (a) raw cane sugar shall have a safety factor not exceeding 0,30;

- (b) raw beet sugar shall have:

- a pH value not less than 7,9 at the time the offer is accepted,
- an invert sugar content not exceeding 0,07 %,
- a temperature which does not entail any risk of deterioration,
- a safety factor not exceeding 0,45 when the degree of polarisation is 97 or above, or
- a moisture content not exceeding 1,4 % when the degree of polarisation is below 97.

The safety factor shall be determined by dividing the percentage moisture content of the sugar concerned by the difference between 100 and the degree of polarisation of that sugar.

4. Sugar offered for intervention shall be deemed not to be of sound and fair marketable quality for the purposes of paragraphs 2 and 3 where it exceeds the maximum levels of radioactivity permitted under Regulation (Euratom) No 3954/87. The level of radioactive contamination of the product shall be monitored only if the situation so requires and during the period necessary. Where necessary, the duration and scope of checks shall be determined in accordance with the procedure referred to in Article 42(2) of Regulation (EC) No 1260/2001.

### Article 5

Only sugar which has not previously been bought in to intervention and which is owned by the party making the offer may be offered for intervention.

### Article 6

All sugar offered for intervention shall be put up in lots.

For the purposes of this Regulation 'lot' means 500 tonnes of sugar of uniform quality and packing, all of which is stored in the same place. However, if a larger quantity is offered, the excess over 500 tonnes or a multiple thereof shall also constitute a lot.

### Article 7

1. Offers made to an intervention agency shall indicate:

- (a) the name and address of the party making the offer;
- (b) the warehouse in which the sugar is stored at the time the offer is made;
- (c) the removal capacity and, where applicable, the bagging capacity guaranteed for the removal of the sugar offered;
- (d) the net quantity of sugar being offered;
- (e) the nature and quality of the sugar offered, and the marketing year in which it was produced;
- (f) the type of packing of the sugar.

2. The intervention agency may require additional information.

3. Offers shall be accompanied by a statement from the parties making the offer certifying that the sugar concerned has not previously been bought in to intervention, that they own the sugar and that it conforms to the requirements laid down in Article 4(1)(a).

### Article 8

1. Offers shall remain valid for three weeks from the date of submission.

However, they may be withdrawn during that period with the consent of the intervention agency.

2. The intervention agency shall examine offers. It shall accept them not later than the end of the period referred to in paragraph 1.

However, the intervention agency shall reject offers if examination shows that any of the requirements have not been met.

3. Buying-in contracts shall specify the type of packing of the sugar to be bought in. If necessary, they may also include a clause to the effect that the intervention agency reserves the right to require one or more of the types of packing specified in Article 18(2) at the time of removal.

4. Buying-in contracts may be terminated only by mutual consent and before removal of the sugar.

#### CHAPTER IV

##### Storage contracts

###### Article 9

1. Without prejudice to Article 17(4), storage contracts to be concluded prior to buying in between parties making offers and the intervention agency shall be concluded for an indefinite period.

2. Storage contracts shall take effect from the date of the provisional payment referred to in Article 16(1) and shall expire at the end of the 10-day period during which removal of the quantity of sugar concerned is completed.

3. Storage contracts shall, in particular:

- (a) provide for expiry of the contract under the conditions set out in this Regulation after at least 10 days' notice has been given;
- (b) provide that, where the intervention agency determines that the party making the offer has not observed the undertaking referred to in Article 2(2), it may require the contract to be extended beyond the time limit set for removal, in which case paragraph 4 shall not apply;
- (c) specify the amount of the storage costs to be borne by the intervention agency;
- (d) require the seller to load the sugar on to a means of transport indicated by the intervention agency and to bear the cost of such loading.

4. The intervention agency shall bear the storage costs from the beginning of the 10-day period within which provisional payment for the sugar is made until the expiry of the storage contract.

5. Such storage costs for sugar stored in silos or warehouses of sugar undertakings may not exceed EUR 0,048 per 100 kilograms and per 10-day period.

However, the intervention agency may increase that by a percentage not exceeding 35 % where the sugar is stored in silos or warehouses rented by the party making the offer outside sugar undertakings and, in special circumstances, by a percentage not exceeding 50 %.

6. '10-day period' means one of the following periods of a calendar month: from the first to the 10th, from the 11th to the 20th, or from the 21st to the end of the month.

###### Article 10

1. The transfer of ownership of sugar covered by a storage contract shall take place at the same time as the provisional payment for the sugar concerned.

2. Up to the time of removal, the seller shall remain responsible for the quality of the sugar referred to in paragraph 1 and for the packing in which the sugar has been accepted by the intervention agency.

###### Article 11

1. If it is established that a quantity of the sugar concerned does not conform to the quality requirements set out in Article 4, the seller shall immediately replace that quantity with an equal quantity of sugar of the required quality, stored either in the same place of storage or in another place approved for intervention purposes.

2. Where the sugar concerned is stored in one of the types of packing specified in Article 18(2) and it is found that the packing no longer conforms to those specifications, the intervention agency shall require the seller to replace the bags with packing to the required standard.

#### CHAPTER V

##### Buying-in price

###### Article 12

White sugar shall be classified into four grades as follows:

- (a) Grade 1: sugar which is superior in quality to the standard quality;
- (b) Grade 2: sugar of the standard quality;
- (c) Grades 3 and 4: sugar which is inferior in quality to the standard quality.

###### Article 13

1. Grade 1 sugar shall have the following characteristics:

- (a) sound and fair marketable quality, dry, in homogeneously granulated, free-flowing crystals;
- (b) maximum moisture content: 0,06 %;
- (c) maximum invert sugar content: 0,04 %;
- (d) in addition, the characteristics of Grade 1 sugar shall be such that the number of points shall not exceed a total of eight, or:
  - six for the ash content,
  - four for the colour type determined according to the method of the Brunswick Institute for Agricultural Technology and the Sugar Industry, hereinafter referred to as the 'Brunswick Method',

- three for the colour of the solution determined according to the method of the International Commission for Uniform Methods of Sugar Analysis, hereinafter referred to as the 'ICUMSA Method'.

One point shall correspond to:

- (a) 0,0018 % ash content determined according to the ICUMSA Method at 28° Brix;
- (b) 0,5 unit of colour type determined according to the Brunswick Method;
- (c) 7,5 units of solution colour determined according to the ICUMSA Method.

2. Grade 3 sugar shall have the following characteristics:

- (a) sound and fair marketable quality, dry, in homogeneously granulated, free-flowing crystals;
- (b) minimum polarisation: 99,7° S;
- (c) maximum moisture content: 0,06 %;
- (d) maximum invert sugar content: 0,04 %;
- (e) colour type: maximum No 6 determined according to the Brunswick Method.

3. Grade 4 sugar shall include sugar not included in Grades 1 to 3.

#### Article 14

The intervention price applicable per 100 kilograms of white sugar shall be:

- (a) reduced by EUR 0,73 for Grade 3 sugar;
- (b) reduced by EUR 1,31 for Grade 4 sugar.

#### Article 15

1. The intervention price applicable per 100 kilograms of raw sugar shall be:

- (a) increased where the yield of the sugar is more than 92 %;
- (b) reduced where the yield of the sugar is less than 92 %.

2. The amount of the increase or reduction, expressed in euro per 100 kilograms, shall be equal to the difference between the intervention price for raw sugar and the same price multiplied by a coefficient. The coefficient shall be obtained by dividing the yield of the raw sugar concerned by 92 %.

3. The yield of raw sugar shall be calculated in accordance with point II of Annex I to Regulation (EC) No 1260/2001.

#### Article 16

1. Subject to paragraphs 2 and 3, within eight weeks of the date on which an offer is made, the intervention agency shall make provisional payment of an amount established on the basis of the information contained in the offer and of the buying-in price.

The amount of the provisional payment referred to in the first subparagraph for raw sugar shall be calculated on the basis of a flat-rate yield of 92 %.

2. The provisional payment shall be made on condition that the seller lodges a security equal to 5 % of the amount involved as a guarantee that the information in the offer is correct.

3. The intervention agency shall make final payment of the buying-in price as soon as the weight has been verified and the final results of the sample analyses referred to in Article 19 are known. Any packing costs shall be paid when the condition of the bags is ascertained on removal.

Any discrepancies between the weight as verified and the final results of the sample analyses, on the one hand, and the corresponding information in the offer, on the other, shall be taken into account when final payment of the buying-in price is made, in accordance with Articles 14 and 15, in particular.

4. Except in cases of *force majeure*, the security referred to in paragraph 2 shall be released only if:

- (a) the weight as verified and the final results of the sample analyses do not require a reduction in the price of the sugar bought in;
- (b) the seller refunds any amount of the provisional payment referred to in paragraph 1 in excess of that properly due, within three weeks of the date of receipt of the request for repayment.

The security shall be released immediately. It shall be forfeit if this Regulation has not been complied with.

### CHAPTER VI

#### Removal

#### Article 17

1. Unless otherwise agreed between the intervention agency and the seller, the sugar shall remain in the silo or warehouse in which it was stored at the time of the offer until it is removed.

2. Removal shall take place in the presence of the seller or the seller's representative.

3. When removed from the silo or warehouse, the sugar bought in shall be loaded by the seller onto a means of transport selected by the intervention agency.

4. Without prejudice to Article 34, sugar bought in shall be removed:

- (a) in the case of offers accepted between 1 October and the following 31 March, not later than the following 30 September;
- (b) in the case of offers accepted between 1 April and the following 30 September, not later than the end of the seventh month following that in which the offer was accepted.

5. However, the intervention agency may agree with the seller that removal as referred to in paragraph 4 will take place after the time limits referred to in that paragraph. In such cases, the intervention agency:

- (a) shall conclude a storage contract with the seller covering the agreed period;
- (b) shall, before the end of the said period and at its own expense, instruct the experts referred to in Article 19 to make the sample analyses referred to therein and ascertain the weight of the sugar;
- (c) shall make final payment of the buying-in price in accordance with Article 16;
- (d) may, at the seller's request, agree that the obligation to load the sugar bought in shall be discharged by payment of the costs relating thereto. These costs shall be determined on the basis of the rates in force on the date on which the corresponding maximum period referred to in paragraph 4 expires.

#### Article 18

1. Subject to paragraphs 2 to 4 of this Article, the seller shall deliver the sugar in bulk.

2. Intervention agencies may require the sugar to be delivered in one or more of the following types of packing:

- (a) new jute bags with a net capacity of 50 kilograms lined with polythene of a minimum thickness of 0,04 mm and with a minimum combined weight of jute and polythene of 450 grams;
- (b) new jute bags with a net capacity of 50 kilograms lined with polythene of a minimum thickness of 0,05 mm and with a minimum combined weight of jute and polythene of 420 grams.

Intervention agencies may accept sugar sold into intervention in new jute bags with a net capacity of 50 kilograms lined with polythene of a combined weight of jute and polythene of 400 grams. For acceptance, the intervention agency may specify a minimum thickness of polythene lining as well as a particular quality of jute bag.

3. Where an intervention agency requires or accepts one or more of the types of packing provided for in paragraph 2, it shall bear the cost of such packing. In addition, it shall inform the seller, in good time before removal, of the type or types of packing provided for in paragraph 2 which it requires or will accept.

The flat-rate amount to cover the cost of the packing referred to under (a) and (b) of the first subparagraph of paragraph 2 is fixed at EUR 1,70 per 100 kilograms of sugar.

The flat-rate amount to cover the cost of the packing referred to under the second subparagraph of paragraph 2 is fixed at EUR 1,57 per 100 kilograms of sugar.

4. The intervention agency may accept delivery of the sugar in a type of packing other than those specified in paragraph 2. In that case, the intervention agency shall not bear the costs relating thereto and sellers shall be required to deliver the sugar in bulk at their own expense at the time of removal unless an agreement concerning the packing has been reached between the seller and the party who is subsequently to buy the sugar from the intervention agency.

#### Article 19

1. At the time of removal, four samples shall be taken for analysis either by experts approved by the competent authorities of the Member State concerned or by experts agreed upon by the intervention agency and the seller. There shall be one sample for each of the contracting parties. The other two samples shall be kept by the expert or by a laboratory approved by the competent authorities.

Each sample shall be analysed twice and the mean of the results shall be taken as the result of the analysis of the sample concerned.

2. In the event of a dispute between the contracting parties over the grade of the sugar bought in, the following rules shall apply:

- (a) where the difference between the results of the analyses arranged by the seller and the buyer is:
  - for Grade 1 sugar, no more than one point for each of the characteristics referred to in Article 13(1)(d), or
  - for Grade 2 sugar, not greater than two points for each of the characteristics defining that grade which are determined by points,

the arithmetic mean of the two results shall be conclusive for establishing the grade of the sugar concerned.

However, at the request of either of the contracting parties, an arbitral analysis shall be carried out by the laboratory referred to in paragraph 1. In that case, the arithmetic mean of the result of the arbitral analysis and the results of either the seller's or the buyer's analysis, whichever is closer to the result of the arbitral analysis, shall be adopted.

This mean shall be conclusive for establishing the grade of the sugar concerned. If the result of the arbitral analysis lies midway between the results of the analyses arranged by the seller and the buyer, the arbitral analysis alone shall be conclusive for establishing the grade of the sugar concerned;

- (b) where the difference observed is greater than that indicated in the first or second indent, as the case may be, of the first subparagraph of (a) above, an arbitral analysis shall be carried out by a laboratory approved by the competent authorities. In that case the second subparagraph of (a) above shall apply;
- (c) for disputes concerning the upper limit for the colour type of Grade 3 sugar, polarisation, moisture content or invert sugar content, the same procedure shall be followed as in (a) and (b).

However, the differences referred to in (a) shall be replaced by:

- 1,0 unit of colour type for Grade 3 sugar,
- 0,2° S for polarisation,
- 0,02 % for moisture content,
- 0,01 % for invert sugar content.

3. The costs of an arbitral analysis:

- (a) under the second subparagraph of paragraph 2(a), shall be borne by the party requesting the analysis;
- (b) under paragraph 2(b), shall be shared equally by the intervention agency and the seller.

4. If a dispute arises over the yield of the bought-in raw sugar following the application of paragraph 1, an arbitral analysis shall be carried out by the laboratory referred to in paragraph 1. In that case, the arithmetic mean of the result of the arbitral analysis and the results of either the seller's or the buyer's analysis, whichever is closer to the result of the arbitral analysis, shall be adopted. This mean shall be conclusive for establishing the yield of the raw sugar concerned. If the result of the arbitral analysis lies midway between the results of the analyses arranged by the seller and the buyer, the arbitral analysis alone shall be conclusive for establishing the yield of the raw sugar concerned.

The costs of an arbitral analysis shall be borne by the contracting party which contested the result of the analysis made under paragraph 1.

#### Article 20

1. Without prejudice to Article 17(5), at the time of removal the experts referred to in Article 19 shall check the weight of the sugar sold.

The seller shall take all steps necessary to allow the experts to check the weight and to take samples.

2. The costs of checking the weight shall be borne by the seller.

3. The cost of the experts who check the weight and do the sampling shall be borne by the intervention agency.

### TITLE II

### SALE

#### CHAPTER I

#### General provisions

#### Article 21

1. Intervention agencies may sell sugar only after a decision to this effect has been taken in accordance with the procedure referred to in Article 42(2) of Regulation (EC) No 1260/2001.

2. The sale of sugar under the conditions referred to in the first subparagraph of Article 9(1) of Regulation (EC) No 1260/

2001 shall be by tendering procedure or by some other sales procedure.

The sale of sugar for the purposes referred to in the second subparagraph of Article 9(1) of Regulation (EC) No 1260/2001 shall be by tendering procedure.

3. The purpose of the tendering procedure shall be to determine the selling price, the amount of the denaturing premium or the amount of the export refund, as the case may be. The terms of the tendering procedure, including the intended use of the sugar to be disposed of, shall be determined when the decision is taken to issue an invitation to tender.

4. The terms of the tendering procedure must guarantee equal access and treatment for all interested parties irrespective of where in the Community they are established.

### CHAPTER II

#### Sale by tender

#### Article 22

1. The invitation to tender shall be issued by the intervention agency concerned for the quantities of sugar held by it.

2. The intervention agency shall draw up an invitation to tender, which shall be published in the *Official Journal of the European Communities*. The intervention agency may also publish the invitation to tender or have it published elsewhere.

3. Publication in the *Official Journal of the European Communities* shall take place at least 10 days before the period for submission of tenders expires.

4. The invitation shall indicate in particular:

- (a) the name and address of the intervention agency issuing the invitation to tender;
- (b) the terms of the tendering procedure;
- (c) the time limit for submission of tenders;
- (d) the lots of sugar put up for tender, and for each lot:

in particular:

- the reference number,
- the quantity,
- the quality of the sugar concerned,
- the type of packaging,
- the location of the warehouse in which the sugar is stored,
- the delivery stage,
- any facilities at the warehouse for loading onto a means of transport by inland waterway, sea or rail.

The invitation to tender may contain other information.

5. The intervention agency shall make such arrangements as it considers necessary to enable interested parties who so request to examine the sugar offered for sale.



*Article 23*

1. Award to successful tenderers shall be equivalent to the conclusion of a sales contract for the quantity of sugar awarded. Award shall be made, as the case may be, on the basis of the following factors contained in the tender:

- (a) the price to be paid by the successful tenderer;
- (b) the amount of the denaturing premium;
- (c) the amount of the export refund.

2. The price to be paid by the successful tenderer shall be:

- (a) the price indicated in the tender, in the case of paragraph 2(a);
- (b) the price indicated in the terms of the invitation to tender, in the case of paragraph 2(b) and (c).

*Article 24*

1. For the purposes of this chapter 'intended use' means:

- (a) animal feed;
- (b) export;
- (c) other purposes, to be determined as required.

2. For the purposes of this chapter 'lot' means a quantity of sugar of uniform quality, packaged in the same way and stored in the same place.

*Article 25*

1. For the purposes of the tendering procedure, the following terms shall be determined:

- (a) the total quantity or quantities put up for tender;
- (b) the intended use;
- (c) the time limit for submission of tenders;
- (d) the price to be paid by the successful tenderer if the sugar is intended for animal feed or for export.

2. Additional terms may be determined, in particular:

- (a) the minimum price for sugar put up for sale for a purpose other than animal feed or export;
- (b) the maximum amount of the denaturing premium or the export refund, hereinafter called 'premium' and 'refund', respectively;
- (c) the minimum quantity per tenderer or per lot;
- (d) the maximum quantity per tenderer or per lot;
- (e) the specific period of validity of the denaturing premium certificate or export licence, hereinafter called 'certificate' and 'licence' respectively.

*Article 26*

1. If the situation on the sugar market in the Community so requires, a standing invitation to tender may be issued.

During the period of validity of the standing invitation to tender, partial invitations to tender shall be issued.

2. The standing invitation to tender shall be published only for the purpose of issuing it. The invitation as published may be amended or replaced during the period of validity of the standing invitation to tender. It shall be amended or replaced if the terms of the tendering procedure are changed during its period of validity.

*Article 27*

1. Tenderers shall either deliver written tenders to the intervention agency against a receipt or address tenders to the intervention agency by registered letter, telex or telegram.

2. Tenders shall indicate:

- (a) the procedure to which the tender relates;
- (b) the name and address of the tenderer;
- (c) the number of the lot;
- (d) the quantity tendered for;
- (e) per 100 kilograms, as appropriate, expressed in euro to three decimal places:
  - the price proposed, excluding internal charges,
  - the amount of the premium proposed, or
  - the amount of the refund proposed.

The intervention agency may require additional information.

3. A tender concerning several lots shall be deemed to contain as many tenders as the lots it concerns.

4. Tenders shall be valid only if:

- (a) proof is supplied before expiry of the time limit for submission of tenders that the tendering security has been lodged;
- (b) they include a declaration by the tenderer undertaking, for any quantity of sugar awarded for either a premium or a refund:
  - to apply for a certificate and lodge the security required in that connection, where the tendering procedure relates to sugar intended for animal feed,
  - to apply for a licence and lodge the security required in that connection, where the tendering procedure relates to sugar intended for export.

5. A tender may stipulate that it is to be treated as submitted only if the award:

- (a) relates to all or a specified part of the quantity indicated in the tender;
- (b) is made not later than a time and date specified by the tenderer.

6. Tenders not submitted in accordance with this Article, or containing terms other than those indicated in the invitation to tender, shall not be taken into consideration.

7. Once a tender has been submitted it may not be withdrawn.

*Article 28*

1. The tendering security per 100 kilograms of white or raw sugar shall be:

- (a) EUR 0,73 for the intended uses referred to in Article 24(1)(a) and (c);
- (b) EUR 1,46 for the intended use referred to in Article 24(1)(b).

2. Tenderers may lodge the security either in cash or in the form of a guarantee given by an institution meeting criteria laid down by the Member State in which the tender was submitted.

The Member States shall notify the Commission of the types of institution authorised to give such a guarantee and the criteria referred to in the first subparagraph. The Commission shall in turn inform the other Member States.

*Article 29*

1. Tenders shall be examined in private session by the intervention agency. Persons present at the examination shall be sworn to secrecy.

2. The Commission shall be informed without delay of the tenders submitted.

*Article 30*

Where the terms of the tendering procedure do not specify either a minimum price or a maximum amount for the premium or the refund, these shall be fixed in accordance with Article 42(2) of Regulation (EC) No 1260/2001 after the tenders have been examined, in the light of market conditions and potential outlets. However, a decision may be taken to make no award.

*Article 31*

1. Except where a decision is taken to make no award under a tendering procedure or a partial tendering procedure, and without prejudice to paragraphs 2 and 3 of this Article, the award shall be made to any tenderer whose tender is not less than the minimum price or more than the maximum amount of the premium or the refund.

2. For any one lot, the award shall be made to the tenderer who proposes either the highest price or the lowest amount of the premium or the refund.

If the lot is not completely accounted for by that tender, the remainder shall be awarded to other tenderers depending on the amount of their tender, starting with either the next highest price or the next lowest premium or refund.

3. If several tenderers propose either the same price or the same amount for the premium or the refund for one lot or part of a lot, the intervention agency shall award the quantity concerned:

- (a) either in proportion to the quantities indicated in the tenders in question;
- (b) or by dividing that quantity between the tenderers in agreement with them;
- (c) or by drawing lots.

*Article 32*

1. If the sugar is intended for animal feed, awards shall:

- (a) confer the right to the issue of a certificate for the quantity for which the premium is awarded, showing in particular the premium specified in the tender;
- (b) entail the obligation to apply for such a certificate for that quantity to the intervention agency to which the tender was submitted.

If the sugar is intended for export, awards shall:

- (a) confer the right to the issue of a licence for the quantity for which the refund is awarded, showing in particular the refund and, in the case of white sugar, the grade specified in the invitation to tender;
- (b) entail the obligation to apply for such a licence for that quantity and, in the case of white sugar, that grade, to the intervention agency to which the tender was submitted.

2. Rights shall be exercised and obligations fulfilled within 18 days following expiry of the time limit for submission of tenders.

3. Rights and obligations arising from awards shall not be transferable.

*Article 33*

1. The intervention agency shall immediately notify all tenderers of the outcome of their participation in the tendering procedure. It shall also send statements of award to the successful tenderers.

2. Statements of award shall indicate at least:

- (a) the procedure to which the tender relates;
- (b) the number of the lot and the quantity awarded;
- (c) the price, the amount of the premium or the amount of the refund, as the case may be, accepted for the quantity referred to under (b).

*Article 34*

1. Except in cases of *force majeure*, the sugar purchased shall be removed from storage not later than four weeks following the date on which the statement referred to in Article 33 is received. Instead of removing the sugar from storage, the successful tenderer may agree with the intervention agency to conclude a storage contract within that time with the warehouse of the sugar concerned.

However, where there are technical difficulties regarding removal from storage, the intervention agency may if necessary allow a longer period for removing particular lots from storage.

2. In cases of *force majeure*, the intervention agency shall determine the measures necessary in view of the circumstances invoked by the successful tenderer.

#### Article 35

1. The successful tenderer may not remove the purchased sugar from storage or conclude a storage contract under Article 34(1) until a removal order is issued for the quantity awarded.

However, removal orders may be issued for parts of that quantity.

Removal orders shall be issued by the intervention agency concerned at the request of the interested party.

2. The intervention agency shall not issue a removal order unless it is proved that the successful tenderer has either lodged a security to guarantee payment of the price for the sugar awarded within the time laid down, or provided a negotiable instrument.

The security or negotiable instrument shall correspond to the price to be paid by the successful tenderer for the quantity of sugar for which a removal order has been requested.

#### Article 36

1. The price for the sugar awarded must be paid to the intervention agency's account not later than the 30th day following the issue of a removal order.

2. Except in cases of *force majeure*, the security referred to in Article 35(2) shall be released only for the quantity for which the successful tenderer has paid the purchase price to the account of the intervention agency within the time limit referred to in paragraph 1. The security shall be released immediately.

3. In cases of *force majeure*, the intervention agency shall determine the measures necessary in view of the circumstances invoked by the successful tenderer.

#### Article 37

1. Ownership of sugar awarded under a tendering procedure shall be transferred when the sugar is removed from storage.

2. However, the intervention agency and the successful tenderer may agree to ownership being transferred at another stage. Where the intervention agency and the successful tenderer have reached an agreement under Article 34(1), they may determine at what stage the transfer of ownership is to take place.

Agreement on the transfer of ownership shall be valid only if it is concluded in writing.

#### Article 38

1. Article 19 shall apply for the purposes of determining the grade or yield of the sugar concerned when it is removed from storage.

2. However, the contracting parties may agree, after the award has been made, that the grade or yield determined when the sugar was bought in by the intervention agency shall apply to the sugar sold under the tendering procedure.

#### Article 39

1. Where application of Article 19 establishes that white sugar is of a grade lower than that indicated in the invitation to tender, the price for that sugar intended for the uses referred to in Article 24(1)(b) and (c) shall be adjusted by applying Article 14.

2. If it is found that white sugar intended for export is of a grade other than that indicated in the invitation to tender, the grade shown in the licence shall be corrected.

3. Where application of Article 19 establishes that the yield of raw sugar is other than that indicated in the invitation to tender:

- (a) the price for that sugar shall be adjusted by applying Article 15;
- (b) the amount of the premium or refund shall be adjusted by multiplying it by a coefficient equal to the yield established divided by the yield indicated in the invitation to tender.

#### Article 40

1. Except in cases of *force majeure*, the tendering security shall be released only for the quantity for which:

- (a) the successful tenderer:
  - after fulfilling the requirements, has applied for either a certificate or a licence,
  - has lodged the security or provided the negotiable instrument referred to in Article 35(2),
  - has removed the sugar from storage within the time limit laid down, or
- (b) no award is made.

2. The security shall be released immediately.

3. In cases of *force majeure*, the intervention agency shall determine the measures necessary in view of the circumstances invoked by the successful tenderer.

#### TITLE III

#### FINAL PROVISIONS

#### Article 41

Regulations (EEC) No 258/72 and (EEC) No 2103/77 are hereby repealed.

#### Article 42

This Regulation shall enter into force on 1 July 2001.

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

Done at Brussels, 27 June 2001.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

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**COMMISSION REGULATION (EC) No 1263/2001****of 27 June 2001****fixing the derived intervention prices for white sugar for the 2001/02 marketing year**

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 <sup>(1)</sup>, and in particular Article 2(4) thereof,

Whereas:

- (1) Regulation (EC) No 1260/2001 fixes the intervention price for white sugar for non-deficit areas at EUR 63,19/100 kg for the 2001/02 to 2005/06 marketing years.
- (2) Article 2(1)(b) of Regulation (EC) No 1260/2001 provides that derived intervention prices for white sugar are to be fixed for each deficit area each year. When those prices are fixed, account is to be taken of the regional variations in the price of sugar, which, given a normal harvest and free movement of sugar, may be expected to occur under natural conditions of price formation on the market and in view of experience gained and the costs of transporting sugar from surplus areas to deficit areas.

- (3) The areas of production in Ireland, the United Kingdom, Spain, Portugal and Finland are likely to be deficit areas.
- (4) 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*

The derived intervention prices for white sugar in the deficit areas of the Community shall be:

- (a) EUR 64,65/100 kg for all areas in Ireland and the United Kingdom;
- (b) EUR 64,65/100 kg for all areas in Portugal;
- (c) EUR 64,65/100 kg for all areas in Finland;
- (d) EUR 64,88/100 kg for all areas in Spain.

*Article 2*

This Regulation shall enter into force on 1 July 2001.

It shall apply for the 2001/02 marketing year.

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

Done at Brussels, 27 June 2001.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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

**COMMISSION REGULATION (EC) No 1264/2001  
of 27 June 2001**

**amending Regulations (EC) No 1531/2000 relating to a standing invitation to tender to determine levies and/or refunds on exports of white sugar for the 2000/01 marketing year, (EEC) No 1729/78 laying down detailed rules of application in respect of the production refund for sugar used in the chemical industry and (EC) No 1729/97 on the adjustment, following a change in prices or the storage levy in the sugar sector, of certain export refunds fixed in advance**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

from the common organisation of the markets in the sugar sector <sup>(7)</sup>.

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 <sup>(1)</sup>, and in particular Article 7(5) thereof,

Whereas:

(1) Article 7 of Commission Regulation (EC) No 2135/95 <sup>(2)</sup> provides that if there is a change in the prices of sugar during the period between the day of lodging of the application for an export licence with fixing of the refund or the closing date for the submission of tenders and the day of export, the refund may be adjusted.

(2) Article 14(1) of Commission Regulation (EC) No 1531/2000 <sup>(3)</sup>, Article 5a(1) of Commission Regulation (EEC) No 1729/78 <sup>(4)</sup>, as last amended by Regulation (EC) No 1148/98 <sup>(5)</sup>, and Article 1(1) of Commission Regulation (EC) No 1729/97 <sup>(6)</sup>, as amended by Regulation (EC) No 1148/98, provide, notwithstanding Article 7 of Regulation (EC) No 2135/95, for the adjustment of export and production refunds if the storage levy is changed during the period referred to therein. That adjustment takes account of the change in the costs of sugar on which the refunds are based.

(3) From 1 July 2001 Regulation (EC) No 1260/2001 no longer makes provision for a compensation system for storage costs involving a flat-rate reimbursement and its financing by means of a levy. The derogation provided for in Article 7 of Regulation (EC) No 2135/95 is therefore no longer warranted once the storage levy lapses

(4) The sugar costs attracting those refunds are unaffected in so far as Article 48(2) of abovementioned Regulation (EC) No 1260/2001 provides that, under the compensation system for storage costs, 30 June 2001 is regarded as the date of disposal for the purposes of collecting the storage levy on sugar in storage at 30 June 2001. Export refunds fixed before 1 July 2001 on such sugar should therefore not be adjusted during the term of validity of the documents concerned or any later than 30 September 2001, where the documents are valid beyond that date. The derogations provided for in Article 7 of Regulation (EC) No 2135/95 should accordingly be amended.

(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*

For sugar in storage on 30 June 2001 on which the storage levy referred to in Article 1 of Commission Regulation (EC) No 1434/2000 <sup>(8)</sup> is payable, i.e. sugar produced in the marketing year prior to 2001/02, the adjustment linked to the change in the storage levy and provided for in:

- Article 14(1) of Regulation (EC) No 1531/2000,
- Article 5a(1) of Regulation (EEC) No 1729/78 and
- Article 1(1) of Regulation (EC) No 1729/97,

shall not be applied to refunds fixed prior to 1 July 2001 during the term of validity of the export licences and production refund certificates or any later than 30 September 2001, where they are valid beyond that date.

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

<sup>(2)</sup> OJ L 214, 8.9.1995, p. 16.

<sup>(3)</sup> OJ L 175, 14.7.2000, p. 69.

<sup>(4)</sup> OJ L 201, 25.7.1978, p. 26.

<sup>(5)</sup> OJ L 159, 3.6.1998, p. 39.

<sup>(6)</sup> OJ L 243, 5.9.1997, p. 1.

<sup>(7)</sup> OJ C 29 E, 30.1.2001, p. 315.

<sup>(8)</sup> OJ L 161, 1.7.2000, p. 59.

*Article 2*

This Regulation shall enter into force on 1 July 2001.

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

Done at Brussels, 27 June 2001.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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**COMMISSION REGULATION (EC) No 1265/2001****of 27 June 2001****laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards granting the production refund on certain sugar products used in the chemical industry**

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 on the common organisation of the markets in the sugar sector <sup>(1)</sup>, and in particular Article 7(5) thereof,

Whereas:

- (1) Under Article 7(3) of Regulation (EC) No 1260/2001 it has been decided to grant production refunds on sugar, unprocessed isoglucose and sugar syrups covered by that Regulation and also chemically pure fructose (laevulose) falling within CN code 1702 50 00 as an intermediate product used in the manufacture of certain products of the chemical industry.
- (2) Arrangements similar to those for white sugar used by the chemical industry should be laid down for unprocessed isoglucose.
- (3) Where clearly defined intermediate products are, on the one hand, obtained in the Community directly from a basic product excluding any product covered by another production refund scheme and are, on the other hand, used for the manufacture of a chemical listed in Annex I to this Regulation, provision should be made for the possibility of granting a production refund on those intermediate products. That possibility must apply even where the intermediate products are used in a Member State other than that in which they were manufactured. To that end, it should be laid down, on the one hand, that the production refund is to be granted for the basic product having served for the manufacture of the quantity of intermediate product used as indicated above and, on the other, that the refund is to be determined using the same yield coefficients as those established for calculating the export refunds on the same intermediate products.
- (4) Application of the production refund arrangements to intermediate products requires that those products be defined and that an appropriate verification system be implemented. Such verification, by way of prior approval should cover both the stage of the manufacture of the intermediate product and that of processing into the final chemical product, to ensure that the basic product as defined is actually used for the manufacture of a chemical product listed in Annex I to this Regula-

tion and that any duplicate payment of the production refund is avoided.

- (5) Sugar can be used as a basic product by the chemical industry in the same way as starch products. A harmonious development should therefore be assured for the use of these basic products. To that end provision should be made for the application of a production refund system that takes account of both the price for sugar on the Community market and the movement of world sugar prices.
- (6) The arrangements applicable to sugar products used for the manufacture of chemical products are designed to promote, on the one hand, the development of the use of sugar products by the chemical industry and, on the other, the development of biotechnology on the basis of those basic products, by aligning prices on the world market price for sugar. With that in view, the system provides for the progressive application of the principle of establishing production refunds by reference to the world price and the Community price for sugar, with a standard amount of EUR 6,45 per 100 kilograms to be added to the world price. The standard amount corresponds to the forwarding costs for exporting Community sugar, including a flat-rate element intended in particular to avoid the sale of sugar at a price lower than the world market price which, by nature, is very volatile. The experience gained from the operation of the said arrangements shows the need for, on the one hand, placing the Community chemical industry that uses sugar products under conditions comparable to those valid for the chemical industry that obtains its supplies from the world sugar market and, on the other hand, opening up the non-food outlets even further to the Community industry producing sugar products. To that end the arrangements should be maintained, applying in full the exclusive reference to the world and Community markets for sugar.
- (7) Raw sugar and syrups with a high degree of purity, calculated in accordance with Article 1(5) of Commission Regulation (EEC) No 1443/82 of 8 June 1982 laying down detailed rules for the application of the quota system in the sugar sector <sup>(2)</sup>, as last amended by Regulation (EC) No 392/94 <sup>(3)</sup>, should also qualify for the production refunds if used in the chemical industry.

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

<sup>(2)</sup> OJ L 158, 9.6.1982, p. 17.

<sup>(3)</sup> OJ L 53, 24.2.1994, p. 7.



The production refund on those basic products should therefore be that for white sugar, adjusted by reference to yield or sucrose content as appropriate. As far as isoglucose is concerned, production refunds should be granted subject to the same conditions as the export refunds on that product.

- (8) Provision should be made for the production refund to be fixed monthly with, in particular, reference periods to be defined and recordings to be made to determine the price of sugar on the world market. Given the monthly fixing of refunds, reference periods of about one month should be established for that purpose.
- (9) As the disposal of sugar surpluses on the markets of non-member countries takes place almost entirely by means of tendering procedure, the basis for defining the price of sugar on the world market to be used for fixing the production refund should be the weighted average of export refunds fixed by means of the said tendering procedure during the reference period in question.
- (10) To prevent abuses, provision should be made for the production refund to be granted only if other uses are excluded by means of controls. If such controls are to be possible, the production refund should be paid only to the processor and on application by the processor. The said controls may, in certain cases, be rendered more effective if they are accompanied by an approval procedure. The Member State on whose territory processing takes place should therefore be free to decide whether or not processors must obtain such approval.
- (11) The production refund cannot be granted unless precise information is available. Persons who may qualify for the refund should therefore have to submit a prior application in writing giving certain information.
- (12) Since the basic products in the sugar sector are perfectly interchangeable with basic products in the cereals and rice sector, an unwarranted difference in treatment should be avoided. To that end similar provisions to those contained in Commission Regulation (EEC) No 1722/93 of 30 June 1993 laying down detailed rules for the application of Council Regulations (EEC) No 1766/82 and (EEC) No 1418/76 concerning production refunds in the cereals and rice sectors respectively <sup>(1)</sup>, as last amended by Regulation (EC) No 87/1999 <sup>(2)</sup>, for the release of the security should be laid down for sugar. Those provisions allow the security to be released in proportion to the quantities for which processing of the

basic product has taken place during the period of validity of the production refund certificate.

- (13) For the purposes of proof and control, a refund certificate must be introduced which is valid for a period which is long enough to allow the trade to make long-term arrangements and gives the information necessary to fix the production refund. In order to ensure that the sugar concerned is used for the purpose for which the refund certificate was issued, it should be provided that only the applicant may claim on the certificate and only after the basic production in question has been processed.
- (14) Since, on the one hand, final payment of the production refund may be made only after processing has taken place and, on the other, the trade has an interest in being paid as soon as possible, provision should be made for such payment to be effected shortly after processing.
- (15) The duration of validity of production refund certificates is such that it may cover up to six months of fixing production refunds and such certificates must indicate the production refunds valid on the day of receipt of the application. There may therefore be a change in the intervention price for sugar fixed for the non-deficit areas between the date of receipt of the application for a refund certificate and the date of processing of the basic product in question. Given that the production refund is established on the basis of the Community sugar price and world price movements, a rule for adjusting the said refund should therefore be laid down to take account of any change in the intervention price fixed in euro for sugar between the date of receipt of the application and the date of processing of the basic product in question.
- (16) In order to make it possible to check that the basic products are put to the intended use, a competent body having access to all necessary information must be set up in each Member State. In order to counteract the effects of delays in payment of the refund, provision should be made for an advance to be paid to the holder of a certificate as soon as the basic products have been placed under control and, in return, the holder should be required to provide a security as guarantee to the Member State concerned should processing of the basic product not be carried out in accordance with the conditions laid down in the refund certificate. However, the Member State concerned should be free to decide on appropriate measures to deal with cases of *force majeure* which prevent certificate holders from fulfilling their obligations.

<sup>(1)</sup> OJ L 159, 1.7.1993, p. 112.

<sup>(2)</sup> OJ L 9, 15.1.1999, p. 8.

- (17) Experience gained since the new production refund arrangements were implemented on 1 July 1986, and more particularly since they were amended on 1 July 1990, shows the need to ensure that the arrangements are applied more effectively, particularly at the stage of application for the production refund. To that end the margin within which the interested party is considered to have satisfied the primary requirement of processing the basic or intermediate product should be widened to take account of the technical constraints of processing, in particular in the case of fermentation processes where the yield is very variable depending on the reactions of micro-organisms. A maximum tolerance should also be laid down for cases where, when the process has gone wrong and the processor is obliged to use more basic product than originally expected, he may do so without having to draw up a whole special file in order to qualify for the production refund for the additional quantity thus processed.
- (18) The rules of application laid down by this Regulation replace those of Commission Regulation (EEC) No 1729/78 of 24 July 1978 laying down detailed rules of application in respect of the production refund for sugar used in the chemical industry <sup>(1)</sup>, as last amended by Regulation (EC) No 1148/98 <sup>(2)</sup>, which should therefore be repealed.
- (19) 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

1. For the purposes of this Regulation 'basic products' means:
- (a) products referred to in Article 1(1)(a) and (f) of Regulation (EC) No 1260/2001 and
  - (b) sugar syrups referred to in Article 1(1)(d) of Regulation (EC) No 1260/2001 and falling within CN codes ex 1702 60 95 and ex 1702 90 99 having a purity of at least 85 %,

which are used in the manufacture of the products of the chemical industry listed in Annex I.

2. Intermediate products listed in Annex II which, on the one hand, are obtained in the Community directly from the abovementioned basic products, with the exception of any product covered by another production refund system, and which, on the other hand, are used for the manufacture of chemical products listed in Annex I shall be treated in the same way as those basic products.

3. Chemically pure fructose (laevulose) falling within CN code 1702 50 00 shall, as an intermediate product, be considered as one of the basic products if, on the one hand, it is obtained in the Community directly from the said basic products, with the exception of any product covered by another production refund system, and, on the other hand, it is used for processing into one of the chemical products listed in Annex I.

#### Article 2

1. The production refund shall be granted by the Member State in whose territory processing of the basic products takes place.
2. The Member State may grant the refund only if customs control, or administrative inspection affording equivalent guarantees, ensures that the basic products are used for the purpose specified in the application referred to in Article 3.

#### Article 3

1. The production refund shall be granted only to processors who guarantee that the control provided for in Article 2(2) can be carried out at any time and who have submitted an application specifying the chemical product in the manufacture of which the basic product is to be used.
2. The Member State concerned may make entitlement to the refund subject to prior approval of the processors referred to in paragraph 1.

#### Article 4

The amount of the production refund per 100 kilograms of white sugar shall be fixed taking into account the world market price for white sugar, plus a standard amount of EUR 6,45 per 100 kilograms of white sugar, and the price of Community sugar.

The following definitions shall apply:

- (a) world market price for sugar: the price of Community sugar less the average of the export refunds for white sugar recorded during the reference period in question, referred to in Article 9(2), after deduction of a standard amount of EUR 6,45 per 100 kilograms;
- (b) price of Community sugar: the intervention price for white sugar.

#### Article 5

The amount of the production refund granted per 100 kilograms of raw sugar shall be equal to one hundredth of the amount applicable on the use of white sugar, multiplied by the yield of the raw sugar used, which yield shall be determined in accordance with Point II of Annex I to Regulation (EC) No 1260/2001.

<sup>(1)</sup> OJ L 201, 25.7.1978, p. 26.

<sup>(2)</sup> OJ L 159, 3.6.1998, p. 38.

*Article 6*

The amount of the production refund granted per 100 kilograms of sucrose syrups shall be equal to one hundredth of the amount applicable on the use of white sugar, multiplied by:

- (a) the sucrose content of the syrup used, where the purity of the latter is not less than 98 %; or
- (b) the extractable sugar content of the syrup used, determined in accordance with the second subparagraph of Article 1(5) of Regulation (EEC) No 1443/82, where the purity of the syrup is at least 85 % but less than 98 %.

*Article 7*

The amount of the production refund granted per 100 kilograms of dry matter of the basic product referred to in Article 1(1)(f) of Regulation (EC) No 1260/2001 shall be equal to the amount of the production refund applicable on the use of white sugar.

The production refund shall be granted only if the product:

- (a) has been obtained by isomerisation of glucose;
- (b) has a content by weight in the dry state of at least 41 % fructose; and
- (c) the total content by weight in the dry state of polysaccharides and oligosaccharides, including the di- or trisaccharides content, does not exceed 8,5 %.

*Article 8*

The amount of the production refund granted per 100 kilograms of laevulose used, expressed as dry matter, shall be equal to the production refund applicable for 100 kilograms of white sugar on the day on which the application for a production refund is received.

*Article 9*

1. The production refund on white sugar shall be fixed monthly for periods commencing on the first of each month.

2. For the purposes of fixing the production refund as provided for in paragraph 1, the reference period for recording export refunds on white sugar as the basis for determining the world market price for sugar as referred to in Article 4(2)(a) shall be the period commencing on the 16th day of the month before the month preceding each of the dates referred to in paragraph 1 and ending on the 15th day of the month immediately preceding the date in question.

3. As regards the world market price for sugar, the average referred to in Article 4(a) shall be the weighted average of the export refunds for white sugar fixed by tendering procedure during the reference period in question as defined in paragraph 2.

4. The amount of the production refund applicable per 100 kilograms of white sugar during each of the months referred to in paragraph 1 shall be equal to the difference between the price for Community sugar applicable during the month for

which the refund is fixed and the world market price for sugar determined for the reference period in question.

5. If the Community and world market prices for sugar change significantly during the period defined in paragraph 1, the refund calculated in accordance with paragraphs 2, 3 and 4 may be adjusted to take account of such changes.

*Article 10*

1. Application for a production refund shall be made in writing to the competent authority of the Member State where the basic product is to be processed.

The application shall state:

- (a) the name/style and address of the processor;
- (b) the nature and quantity of the basic product to be processed, expressed in terms of white sugar or, in the case of isoglucose, in terms of dry weight;
- (c) the tariff heading and description of the chemical product for the manufacture of which the basic product is to be used;
- (d) the place of processing.

2. When the application for a production refund certificate made by the processor concerns an intermediate product:

- (a) it must specify, in addition to the information required under paragraph 1:
  - the nature and the quantity of the basic product which went into the manufacture of the intermediate product,
  - the name or the corporate name and the address of the manufacturer of the intermediate product,
  - the place of manufacture of the intermediate product, and
- (b) it must be accompanied, without prejudice to the second subparagraph of paragraph 3:
  - by an original document, issued to the manufacturer of the intermediate product, at his request, by the competent authority of the Member State on whose territory the manufacture of the intermediate product took place, certifying that the intermediate product has been manufactured directly and exclusively from a basic product, or
  - by a declaration by the processor in which he undertakes to provide the document referred to in the first indent before the expiry of the period of validity of the refund certificate applied for.

The document referred to under (b) of the first subparagraph must show at least:

- (a) the nature and the quantity of the basic product which went into the manufacture of the intermediate product in question;
- (b) the nature and the quantity of the intermediate product in question;

- (c) the name or the corporate name and the address of the manufacturer of the intermediate product;
- (d) the place of manufacture of the intermediate product.

For the issue of the document referred to under (b) of the first subparagraph, the Member State may provide for conditions supplementary to those referred to under the second subparagraph of paragraph 1.

3. For the purposes of the application of paragraph 2:

- (a) the issue of the document referred to under point (b) of the first subparagraph of paragraph 2 shall be made conditional on the granting of prior approval to the manufacturer of the intermediate product by the Member State on whose territory that product is to be manufactured;
- (b) entitlement to the production refund shall be made conditional on the granting of prior approval to the processor by the Member State on whose territory the said processor is to process the intermediate product into a chemical product referred to in Annex I.

The approvals referred to in the second subparagraph shall be granted by the Member State in question if the applicant gives the latter every opportunity to conduct the necessary verifications.

4. Member States may require additional information.

#### Article 11

1. Applications for refund certificates shall be accompanied by a security on which the issue of the refund certificate referred to in Article 12 shall be conditional.

2. The amount of the security shall be EUR 3,78 per 100 kilograms of sugar expressed as white sugar, or, in the case of isoglucose, per 100 kilograms of dry weight.

When an intermediate product is concerned, the security per 100 kilograms of product shall be equal to the amount referred to in the first subparagraph multiplied by the coefficient specified in Annex II for the intermediate product in question, the coefficient being adjusted, as the case may be, according to the dry matter content by the application, *mutatis mutandis*, of the formula corresponding to the coefficient provided for in Annex II.

3. The primary requirement within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85<sup>(1)</sup> to be satisfied for the security referred to in paragraph 2 to be released shall be:

- (a) in the case of an intermediate product, that the document referred to under point (b) of the first subparagraph of Article 10(2) has been submitted by the processor and that the quantity of intermediate product stated in the application has been processed into a chemical product listed in Annex I within the period of validity of the refund certificate in question, or

- (b) in other cases, that the quantity of basic product specified in the application has been processed into a chemical product listed in Annex I within the period of validity of the refund certificate in question.

However, with regard to the primary requirement for processing, if the person concerned has, within the period of validity of the refund certificate, processed at least 90 % of the quantity of the basic product or of the quantity of the intermediate product indicated in the application, he shall be deemed to have complied with the primary requirement indicated under (a) or (b) of the first subparagraph.

4. The application of paragraphs 1 and 2 as regards the release of the security shall be subject to the provisions relating to *force majeure* and to Title V of Regulation (EEC) No 2220/85.

#### Article 12

1. Member States shall issue refund certificates on application.

2. Member States shall use national forms for refund certificates, which, without prejudice to the provisions of other Regulations, Directives or Decisions adopted by Community institutions, shall contain at least the information specified in paragraph 3.

When a certificate referred to in paragraph 1 concerns an intermediate product, it must indicate, in addition to the information required under paragraph 3(a), (b), (d), (e), and (f), the details contained in the application for the certificate referred to in Article 10(2).

3. The refund certificate shall indicate:

- (a) the holder's name and address;
- (b) the date of receipt of the application;
- (c) the nature and the quantity of the basic product to be processed, expressed in terms of white sugar or, in the case of isoglucose, in terms of dry weight;
- (d) the use to which the basic product is to be put;
- (e) the production refund for white sugar applicable on the date of receipt of the application;
- (f) the last day of validity of the certificate;
- (g) the place of processing.

#### Article 13

For the purposes of the second subparagraph of Article 10(1) and Article 12(3):

- (a) the following shall be regarded as one and the same basic product:
  - (i) white sugar falling within CN code 1701 99 10; sugar containing added flavouring or colouring matter falling within CN code 1701 91 00; sugar containing other added substances falling within CN code 1701 99 90 and sucrose syrups having a purity of 85 % or more falling within CN codes 1702 60 95 and 1702 90 99;

<sup>(1)</sup> OJ L 205, 3.8.1985, p. 5.

- (ii) raw sugar falling within CN codes 1701 11 and 1701 12;
  - (iii) isoglucose falling within CN codes ex 1702 40 10, 1702 60 10 and 1702 90 30;
  - (iv) intermediate products referred to in Article 2;
- (b) the indication of the use of the basic product may, on application and with the agreement of the competent authorities of the Member State concerned, consist merely of the chapter of the Combined Nomenclature within which the chemical product or products to be manufactured fall.

#### Article 14

1. The issue of a refund certificate shall give entitlement to payment of the production refund indicated in the certificate:

- (a) in the case of an intermediate product, when the document referred to under point (b) of the first subparagraph of Article 10(2) is submitted within the prescribed period and after the intermediate product has been processed in accordance with the conditions laid down in the refund certificate;
- (b) in other cases, after the basic product has been processed in accordance with the conditions laid down in the refund certificate.

Where the quantity of basic or intermediate product processed exceeds the quantity indicated in the refund certificate, the additional quantity shall be regarded, subject to a limit of 5 %, as having been processed under the certificate with entitlement to payment of the production refund indicated therein.

2. Rights under the certificate shall not be transferable.

#### Article 15

The refund certificate shall be valid from the date of receipt of the application to the end of the fifth month following the month in which the production refund application was received.

#### Article 16

1. If, during the period between the date of receipt of the production refund application and the date of processing of the basic product there is a change in the intervention price for white sugar fixed in euro for the non-deficit areas, the production refund in question shall be adjusted for the quantities of basic product processed from the time of such change.

2. For the purposes of application of the adjustment referred to in paragraph 1, the competent authority of the Member State issuing the refund certificate in question shall add to the

certificate at the time of issue 'to be adjusted in accordance with Commission Regulation (EC) No 1260/2001 for processing operations carried out from the date of application of the new intervention price in question'.

The adjustment shall be made when the production refund in question is paid.

3. Where the basic product is a white sugar, the adjustment referred to in paragraph 1 shall be obtained by increasing or decreasing the production refund, as appropriate, by the difference, expressed in euro per 100 kilograms of sugar, between the intervention price for white sugar for the non-deficit areas applicable on the date of receipt of the certificate application and the corresponding price applicable on the date of processing of the basic product in question.

4. Where the basic product is a raw sugar of standard quality, the adjustment referred to in paragraph 1 shall be obtained by increasing or decreasing the production refund, as appropriate, by the difference, expressed in euro per 100 kilograms of sugar, between the intervention price for raw sugar applicable on the date of receipt of the certificate application and the corresponding price applicable on the date of processing of the basic product in question.

5. If the yield of the raw sugar differs from that of the definition of standard quality referred to in point II of Annex I to Regulation (EC) No 1260/2001, the amount of the refund, adjusted in accordance with paragraph 4, shall be adapted for the payment by applying Article 5(1) of Commission Regulation (EC) No 1423/95 <sup>(1)</sup>.

6. Where the basic product is a sucrose syrup, the adjustment shall be established in accordance with paragraph 4 and with Article 6.

7. Where the basic product is an isoglucose, the adjustment shall be established in accordance with paragraph 4 and shall apply per 100 kilograms of dry matter of the product in question.

#### Article 17

1. Member States shall designate the authorities responsible for control of the processing of basic products.

2. The holder of a refund certificate shall give the authorities referred to in paragraph 1 the following information in writing in sufficient time to enable them to effect the control:

- (a) his name and address;
- (b) the nature and quantity of the basic products to be processed;
- (c) the place where the basic products in question are located when the information is furnished.

Member States may require additional information.

<sup>(1)</sup> OJ L 141, 24.6.1995, p. 16.

*Article 18*

When the basic products have been placed under control, Member States may make an advance payment to the refund certificate holder amounting to not more than 80 % of the production refund indicated on the certificate.

*Article 19*

1. If an advance is paid, Member States shall require a security or recognised equivalent guarantee calculated to ensure repayment of the advance plus 5 %.

2. The security shall be released once processing has taken place in accordance with the conditions laid down in the refund certificate or when the advance plus 5 % has been repaid.

3. Without prejudice to paragraph 4, the repayment referred to in paragraph 1 shall be in proportion to the quantities of basic products which have not been processed under the conditions laid down in the refund certificate.

If the advance is not repaid, the security shall be forfeited in proportion to the amount of the advance to be recovered.

4. If processing cannot be carried out under the conditions laid down in the refund certificate owing to circumstances to be regarded as constituting *force majeure*, and if an application is made to have such circumstances taken into consideration, the Member State concerned shall take such measures as it considers necessary having regard to the circumstances invoked.

*Article 20*

After the party concerned has informed the competent authority of the chemical product in the manufacture of which the sugar has been used, the production refund or, where an

advance has been paid, the difference between the amount advanced and the amount of the production refund shall be paid:

- (a) at the earliest, after it has been established that the basic products have been processed under the conditions laid down in the refund certificate;
- (b) at the latest, at the end of the month following the month in which it was established that processing was completed.

*Article 21*

The production refund shall be paid for the quantity of basic or intermediate product processed within the limit referred to in the second subparagraph of Article 14(1).

The amount of the production refund granted per 100 kilograms of intermediate product used shall be equal to the production refund applicable per 100 kilograms of white sugar on the day on which the application was received multiplied by the coefficient fixed in Annex II for the intermediate product in question, the coefficient being adjusted where appropriate according to the dry matter content by the application of the formula corresponding to the coefficient provided for in Annex II.

*Article 22*

Regulation (EEC) No 1729/78 shall be repealed.

However, Regulation (EEC) No 1729/78 shall remain applicable to processing operations in respect of which production refund applications have been submitted prior to the date of application of this Regulation.

*Article 23*

This Regulation shall enter into force on 1 July 2001.

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

Done at Brussels, 27 June 2001.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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## ANNEX I

| CN code    | Description  |
|------------|--|
| 1302 31 00 | -- Agar-agar   |
| 1302 32    | -- Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds:  |
| 1302 32 10 | --- Of locust beans or locust bean seeds   |
| 1302 32 90 | --- Of guar seeds  |
| 1302 39 00 | -- Other   |
| 1702 90 10 | -- Chemically pure maltose   |
| ex 2520    | Gypsum; anhydrite; plasters, whether or not coloured, with or without small quantities of accelerators or retarders:   |
| 2520 20    | - Plasters   |
| ex 2839    | Silicates: commercial alkali metal silicates:  |
| 2839 90 00 | - Other  |
| Chapter 29 | Organic chemical products excluding subheadings 2905 43 00 and 2905 44   |
| Chapter 30 | Pharmaceutical products  |
| 3203 00 90 | Colouring matter of vegetable or animal origin and preparations thereof  |
| ex 3204    | - Synthetic organic colouring matter and preparations based thereon as specified in note 3 to this chapter   |
| 3307       | Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations, not elsewhere specified or included; prepared room deodorisers, whether or not perfumed or having disinfectant properties:  |
|            | - Preparations for perfuming or deodorising rooms, including odoriferous preparations used during religious rites:   |
| 3307 49 00 | -- Other   |
| 3307 90 00 | - Other  |
| ex 3401    | Soap and organic surface-active products and preparations, in the form of bars, cakes, moulded pieces or shapes, and paper, wadding, felt and non-wovens, impregnated, coated or covered with soap or detergent:   |
| 3401 19 00 | - Other  |
| 3402       | Organic surface-active agents (other than soap); surface-active preparations; washing preparations (including auxiliary washing preparations) and cleaning preparations, whether or not containing soap, other than those of heading No 3401   |
| 3403       | Lubricating preparations (including cutting-oil preparations, bolt or nut release preparations, anti-rust or anti-corrosion preparations and mould release preparations, based on lubricants) and preparations of a kind used for the oil or grease treatment of textile materials, leather, furskins or other materials, but excluding preparations containing, as basic constituents, 70 % or more by weight of petroleum oils or of oils obtained from bituminous minerals: |
|            | - Containing petroleum oils or oils obtained from bituminous minerals:   |
| 3403 19    | -- Other   |
| 3403 19 10 | --- Containing 70 % or more by weight of petroleum oils or of oils obtained from bituminous minerals but not as the basic constituent  |
| 3405       | Polishes and creams, for footwear, furniture, floors, coachwork, glass or metal, scouring pastes and powders and similar preparations (whether or not in the form of paper, wadding, felt, non-wovens, cellular plastics or cellular rubber, impregnated, coated or covered with such preparations), excluding waxes of heading No 3404  |

| CN code            | Description  |
|--------------------|--|
| 3407 00 00         | Modelling pastes, including those put up for children's amusement; preparations known as 'dental wax' or as 'dental impression compounds', put up in sets, in packings for retail sale or in plates, horseshoe shapes, sticks or similar forms; other preparations for use in dentistry, with a basis of plaster |
| ex Chapter 35      | Albuminoidal substances; modified starches; adhesives; enzymes, excluding products falling within heading 3501 and subheadings 3505 10 10, 3505 10 90 and 3505 20  |
| ex Chapter 38      | Miscellaneous chemical products excluding those falling within subheadings 3809 10, 3809 91 00, 3809 92 00, 3809 93 00 and ex 3824 60  |
| ex Chapter 39      | Plastics and articles thereof  |
| 3901<br>to<br>3914 | – Primary forms  |
| ex 6809            | Articles of plaster or of compositions based on plaster (boards, sheets, panels, tiles and similar articles)   |



## ANNEX II

| CN code       | Description  | Coefficients        |
|---------------|--|---------------------|
| 1             | 2  | 3                   |
| ex 1702 90 71 | Caramels containing 50 % or more by weight of sucrose in the dry matter                      | 1,00 <sup>(1)</sup> |
| ex 1702 90 99 | Invert sugar   | 1,00 <sup>(1)</sup> |
| 2905          | Acyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives:     |                     |
|               | – Other polyhydric alcohols:   |                     |
| 2905 43 00    | – – Mannitol   | 1,06                |
| 2905 44       | – – D-glucitol (sorbitol):   |                     |
|               | – – – In aqueous solution:   |                     |
| 2905 44 11    | – – – – Containing 2 % or less by weight of D-mannitol, calculated on the D-glucitol content | 0,74 <sup>(2)</sup> |
| 2905 44 19    | – – – – Other  | 0,74 <sup>(2)</sup> |
|               | – – – Other:   |                     |
| 2905 44 91    | – – – – Containing 2 % or less by weight of D-mannitol, calculated on the D-glucitol content | 1,06                |
| 2905 44 99    | – – – – Other  | 1,06                |
| 3824 60       | – Sorbitol other than that of subheading 2905 44   |                     |
|               | – – In aqueous solution:   |                     |
| 3824 60 11    | – – – Containing 2 % or less by weight of D-mannitol, calculated on the D-glucitol content   | 0,74 <sup>(2)</sup> |
| 3824 60 19    | – – – Other  | 0,74 <sup>(2)</sup> |
|               | – – Other:   |                     |
| 3824 60 91    | – – – Containing 2 % or less by weight of D-mannitol, calculated on the D-glucitol content   | 1,06                |
| 3824 60 99    | – – – Other  | 1,06                |

<sup>(1)</sup> The production refunds determined according to this coefficient shall be understood to be calculated for an invert sugar or, as appropriate, for a caramel having respectively a dry matter content by weight of 100 %.

For invert sugars or caramels respectively with a different dry matter content, the refunds shall be calculated per 100 kilograms of intermediate product by applying the following formula:

$$(a) \times 1,00 \times (b)$$

<sup>(2)</sup> The production refunds determined according to this coefficient shall be understood to be calculated for an aqueous solution of D-glucitol (sorbitol) with a dry matter content by weight of 70 %. For aqueous solutions of D-glucitol (sorbitol) with a different dry matter content, the refunds shall be calculated per 100 kilograms of intermediate product by applying the following formula:

$$(a) \times 0,74(b)/0,70$$

where

(a) = white sugar production refund in question;

(b) = dry matter content of the product, in % by weight.