

Official Journal

of the European Union

L 58

Volume 49

English edition

Legislation

28 February 2006

Contents

I Acts whose publication is obligatory

- ★ **Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector** 1
- ★ **Council Regulation (EC) No 319/2006 of 20 February 2006 amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers** 32
- ★ **Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community and amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy** 42

2

EN

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 318/2006
of 20 February 2006
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 Article 36 and the third subparagraph of Article 37(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion from the European Parliament ⁽¹⁾,

Having regard to the Opinion from the European Economic and Social Committee ⁽²⁾,

Whereas:

- (1) The operation and development of the common market for agricultural products should be accompanied by the establishment of a common agricultural policy to include, in particular, a common organisation of agricultural markets which may take various forms depending on the product.
- (2) The sugar market in the Community is based on principles which for other common market organisations have been substantially reformed in the past. In order to pursue the objectives set out in Article 33 of the Treaty, and notably in order to stabilise the markets and to ensure a fair standard of living for the agricultural community within the sugar sector, it is necessary to fundamentally review the common organisation of the market in the sugar sector.
- (3) In the light of these developments, Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽³⁾ should be repealed and replaced by a new Regulation.
- (4) Reference prices should be fixed for standard qualities of white sugar and raw sugar. Such standard qualities should be average qualities representative of sugar produced in

the Community and defined on the basis of criteria used by the sugar trade. It should also be possible to review the standard qualities to take account, in particular, of commercial requirements and developments in technical analysis.

- (5) In order to achieve reliable information on Community market prices for sugar, a price reporting system should be set up on the basis of which market price levels for white sugar should be determined.
- (6) A minimum price should be fixed for quota beet corresponding to a standard quality which should be defined, in order to ensure a fair standard of living for the Community growers of sugar beet and sugar cane.
- (7) Specific instruments are needed to ensure a fair balance of rights and obligations between sugar undertakings and sugar beet growers. Therefore, standard provisions should be laid down to govern the contractual relations between buyers and sellers of sugar beet. The diversity of natural, economic and technical situations makes it difficult to provide for uniform purchase terms for sugar beet throughout the Community. Agreements within the trade already exist between associations of sugar beet growers and sugar undertakings. Therefore, framework provisions should only define the minimum guarantees required by both sugar beet growers and the sugar industry to ensure a smooth functioning of the sugar market with the possibility to derogate from some rules in the context of an agreement within the trade.
- (8) The reasons which in the past led the Community to adopt a production quota system for sugar, isoglucose and inulin syrup still remain valid. However, due to developments within the Community and internationally, it is necessary to adjust the production system in order to provide for new arrangements and reductions of the quotas. In line with the previous quota system, a Member State should allocate quotas to the undertakings established within its territory. The new common organisation of the markets in the sugar sector should maintain the legal status of the quotas in so far as, according to the case-law of the Court of Justice, the system of quotas constitutes a mechanism for regulating the market in the sugar sector which aims to ensure the attainment of public interest objectives.

⁽¹⁾ Opinion delivered on 19 January 2006 (not yet published in the Official Journal).

⁽²⁾ Opinion delivered on 26 October 2005 (not yet published in the Official Journal).

⁽³⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

- (9) Following the recent decisions on export subsidies of the World Trade Organisation Panel and the Appellate Body on EU export subsidies for sugar and in order for Community operators to ensure a smooth change-over from the previous quota system to the present system, it should be possible during the marketing year 2006/2007 for sugar undertakings to be allocated an additional quota under conditions that take into account the lower value of C sugar.
- (10) To counterbalance the effects on isoglucose of the fall in sugar prices, as well as to avoid penalizing the production of some isoglucose qualities, additional quotas should be allocated to the current isoglucose beneficiaries. Moreover, supplementary quotas should be available for adjustments of the sweeteners sector of some Member States under the conditions provided for granting additional sugar quota.
- (11) To ensure that the Community's production of sugar, isoglucose and inulin syrup is reduced sufficiently, the Commission should be entitled to adjust the quotas to a sustainable level after the termination of the restructuring fund in 2010.
- (12) Given the need to allow for a certain national flexibility in relation to the structural adjustment of the processing industry and of beet and cane growing during the period in which the quotas are to be applied, Member States should be allowed to alter the quotas of undertakings within certain limits whilst not restricting the operation of the restructuring fund established by Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community ⁽¹⁾ as an instrument.
- (13) The sugar quotas are allocated or reduced following a merger or transfer of undertakings, the transfer of a factory, or the lease of a factory. 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 undertakings are not detrimental to the interests of the beet growers or cane growers concerned.
- (14) Since allocating quota production to undertakings is a way of ensuring that sugar beet and cane growers are paid Community prices and have an outlet for their production, the interests of all parties concerned, in particular beet and cane growers, should be taken into consideration when quotas are transferred inside production regions.
- (15) To expand the outlets for sugar, isoglucose and inulin syrup on the Community's internal market, it should be possible to consider sugar, isoglucose and inulin syrup used for manufacture in the Community of certain products such as chemical, pharmaceutical, alcohol or rum, as out-of-quota production under conditions to be laid down.
- (16) A part of the out of quota production should be used to ensure the adequate supply to the outermost regions or could be exported under the Community's WTO commitments.
- (17) Should the production of sugar, isoglucose or inulin syrup exceed the quotas, it should be possible to provide for a mechanism to carry forward the surplus sugar, isoglucose or inulin syrup to be treated as quota production of the following marketing year, in order to avoid the surplus sugar distorting the sugar market.
- (18) Certain mechanisms are available for out of quota production. If, for certain quantities, the applicable conditions are not met, a levy on the surplus should be imposed in order to avoid the accumulation of these quantities threatening the market situation.
- (19) A production charge should be introduced to contribute to the financing of the expenditure occurring under the common organisation of the markets in the sugar sector.
- (20) In order to provide for an efficient control of the production of operators producing sugar, isoglucose or inulin syrup, an approval system for operators should be established and detailed information in relation to their production should be submitted to the Member State concerned.
- (21) A temporary and limited buying-in intervention system should be kept in place in order to contribute to stabilising the market for cases where market prices in a given marketing year would fall below the reference price fixed for the following marketing year.
- (22) New market tools to be managed by the Commission should be introduced. Firstly, if market prices fall below the reference price for white sugar, it should be possible for operators, under conditions to be determined by the Commission, to benefit from a private storage scheme. Secondly, to maintain the structural balance of the markets in sugar at a price level close to the reference price, it should be possible for the Commission to decide to withdraw sugar from the market for as long as it takes for the market to rebalance.
- (23) The creation of a single Community market for sugar involves the introduction of a trading system at the external borders of the Community. That trading system should include import duties and export refunds and should, in principle, stabilise the Community market. The trading system should be based on the undertakings accepted under the Uruguay Round of multilateral trade negotiations.

⁽¹⁾ See page 42 of this Official Journal.

- (24) In order to monitor the volume in trade in sugar with third countries, provision should be made for an import and export licence scheme with the lodging of a security to ensure that the transactions for which such licences are issued are actually carried out.
- (25) To ensure that those trading arrangements can function properly, provision should be made for regulating or, when the situation on the market so requires, prohibiting the use of inward processing arrangements.
- (26) The customs duty system makes it possible to dispense with all other protective measures at the external frontiers of the Community. The internal market and duty mechanism could, in exceptional circumstances, prove to be inadequate. In such cases, in order not to leave the Community market without defence against disturbances that might ensue, the Community should be able to take all necessary measures without delay. Such measures should comply with the international commitments of the Community.
- (27) For the most part, the customs duties applicable to agricultural products under the WTO agreements are laid down in the common customs tariff. However, for some products falling within the scope of this Regulation, the introduction of additional mechanisms makes it necessary to provide for the possibility to adopt derogations.
- (28) In order to prevent or counteract adverse effects on the Community market which could result from imports of certain agricultural products, imports of such products should be subject to payment of an additional duty, if certain conditions are fulfilled.
- (29) It is appropriate, under certain conditions, to confer on the Commission the power to open and administer tariff quotas resulting from international agreements concluded in accordance with the Treaty or from other acts of the Council.
- (30) The Community has several preferential market access arrangements with third countries which allow those countries to export cane sugar to the Community under favourable conditions. Therefore, it is necessary to evaluate refiners' need for sugar for refining and, under certain conditions, to reserve import licences to specialised users of notable quantities of imported raw cane sugar, deemed as being full-time refiners in the Community.
- (31) Provisions for granting refunds on exports to third countries, based on the difference between prices within the Community and on the world market, and falling within the limits set by the EC's commitments in the WTO, should serve to safeguard the possible Community participation in international trade in sugar. Subsidised exports should be subject to limits in terms of quantity and budgetary outlay.
- (32) Compliance with the limits in terms of value should be ensured at the time when the export refunds are fixed through the monitoring of payments under the rules relating to the European Agricultural Guidance and Guarantee Fund. Monitoring can be facilitated by the compulsory advance fixing of export refunds, while allowing the possibility, in the case of differentiated refunds, of changing the specified destination within a geographical area to which a single export refund rate applies. In the case of a change of destination, the export refund applicable to the actual destination should be paid, with a ceiling of the amount applicable to the destination fixed in advance.
- (33) Compliance with the quantity limits should be ensured by a reliable and effective system of monitoring. To that end, the granting of export refunds should be made subject to an export licence. Export refunds should be granted up to the limits available, depending on the particular situation of each product concerned. Exceptions to that rule should be permitted only for processed products not listed in Annex I to the Treaty, to which volume limits do not apply. Provision should be made for derogating from strict compliance with management rules where exports benefiting from export refunds are not likely to exceed the quantity laid down.
- (34) The proper working of the single market based on common prices would be jeopardised by the granting of national aid. Therefore, the provisions of the Treaty governing State aid should apply to the products covered by this common market organisation. However, with a view to attenuating the effects the reform of the sugar sector is expected to have in certain circumstances the granting of certain State aid should be allowed.
- (35) In Member States with a significant reduction of sugar quota sugar beet producers will face particularly severe adaptation problems. In such cases the transitional Community aid to sugar beet growers will not suffice to fully address the beet growers' difficulties. Therefore, Member States having reduced their quota by more than 50 % should be authorised to grant State aid to sugar beet growers during the application period of the transitional Community aid. To avoid Member States granting State aid exceeding the needs of their sugar beet growers the determination of the total amount of the State aid concerned should be made subject to Commission approval, except in the case of Italy where the maximum need for most productive sugar beet to adapt to the market conditions after the reform can be estimated at EUR 11 per tonne of sugar beet produced. Moreover, due to the particular problems expected to arise in Italy provision should be made for arrangements allowing sugar beet growers to benefit directly or indirectly from the State aid granted.

- (36) In Finland sugar beet growing is subject to particular geographical and climatic conditions which will adversely affect the growing beyond the general effects of the sugar reform. For this reason provision should be made for authorising that Member State on a permanent basis to grant its sugar beet growers an adequate amount of State aid.
- (37) It is appropriate to provide for measures to be taken when a substantial rise or fall in prices disturbs or threatens to disturb the Community market. These measures may include the opening of a quota at reduced tariff for imports of sugar from the world market for the time necessary.
- (38) Since the common market in sugar is continuously evolving, the Member States and the Commission should keep each informed of relevant developments.
- (39) 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 ⁽¹⁾.
- (40) The Commission should be authorised to adopt necessary measures to solve specific practical problems in case of emergency.
- (41) The characteristics of sugar production in the outermost regions of the Community distinguish that production from sugar production in the rest of the Community. Financial support should therefore be given to the sector by allocating resources to farmers in those regions after the entry into force of the support programmes to assist local production which Member States draw up under Council Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union ⁽²⁾. For the same reason, France should be authorised to grant a fixed amount of State aid to its outermost regions.
- (42) Expenditure incurred by the Member States as a result of the obligations arising from the application of this Regulation should be financed by the Community in accordance with Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy ⁽³⁾, and, as from 1 January 2007 in accordance with Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy.
- (43) The change-over from the arrangements in Regulation (EC) No 1260/2001 to those provided for in this Regulation as

well as the change-over from the market situation in the marketing year 2005/2006 to the market situation in the marketing year 2006/2007 and in order to ensure compliance by the Community with its international commitments with regard to C sugar referred to in Article 13 of Regulation (EC) No 1260/2001 could give rise to difficulties which are not dealt with in this Regulation. In order to deal with such difficulties, the Commission should be enabled to adopt transitional measures,

HAS ADOPTED THIS REGULATION:

TITLE I

SCOPE AND DEFINITIONS

Article 1

Scope

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

	CN Code	Description
(a)	1212 91	Sugar beet
	1212 99 20	Sugar cane
(b)	1701	Cane or beet sugar and chemically pure sucrose, in solid form
(c)	1702 20	Maple sugar and maple syrup
	1702 60 95 and 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
(d)	2106 90 59	Flavoured or coloured sugar syrups, other than isoglucose, lactose, glucose and maltodextrine syrups
	1702 30 10	Isoglucose
	1702 40 10	
	1702 60 10	
	1702 90 30	
(e)	1702 60 80	Inulin syrup
	1702 90 80	
(f)	1703	Molasses resulting from the extraction or refining of sugar
(g)	2106 90 30	Flavoured or coloured isoglucose syrups
(h)	2303 20	Beet pulp, bagasse and other waste of sugar undertakings

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

⁽²⁾ OJ L 42, 14.2.2006, p. 1.

⁽³⁾ OJ L 160, 26.6.1999, p. 103. Regulation as repealed by Regulation (EC) No 1290/2005 OJ L 209, 11.8.2005, p. 1).

2. The marketing year for the products listed in paragraph 1 shall begin on 1 October and end on 30 September of the following year.

However, the marketing year 2006/2007 shall begin on 1 July 2006 and end on 30 September 2007.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- 1) '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;
- 2) 'raw sugars' means sugars, not flavoured or coloured or containing any other added substances, containing, in the dry state, less than 99,5 % by weight of sucrose, determined by the polarimetric method;
- 3) 'isoglucose' means the product obtained from glucose or its polymers with a content by weight in the dry state of at least 10 % fructose;
- 4) 'inulin syrup' means the immediate product obtained by hydrolysis of inulin or oligofructoses, containing in the dry state at least 10 % fructose in free form or as sucrose, and expressed as sugar/isoglucose equivalents. In order to avoid restrictions on the market for products with low sweetening power produced by inulin fibre processors without inulin syrup quota, this definition may be amended in accordance with the procedure referred to in Article 39(2);
- 5) 'quota sugar', 'quota isoglucose' and 'quota inulin syrup' mean any quantity of sugar, isoglucose or inulin syrup production attributed to a specific marketing year under the quota of the undertaking concerned;
- 6) 'industrial sugar' means any quantity of sugar production attributed to a specific marketing year over and above the sugar quantity referred to in point (5), intended for the production by the industry of one of the products referred to in Article 13(2);
- 7) 'industrial isoglucose' and 'industrial inulin syrup' mean any quantity of isoglucose or inulin syrup production attributed to a specific marketing year, intended for the production by the industry of one of the products referred to in Article 13(2);
- 8) 'surplus sugar', 'surplus isoglucose' and 'surplus inulin syrup' mean any quantity of sugar, isoglucose or inulin syrup production attributed to a specific marketing year over and above the respective quantities referred to in points (5), (6) and (7);
- 9) 'quota beet' means all sugar beet processed into quota sugar;
- 10) 'delivery contract' means a contract concluded between a seller and an undertaking for the delivery of beet for the manufacture of sugar;
- 11) 'agreement within the trade' means one of the following:
 - (a) an agreement concluded at Community level, prior to the conclusion of any delivery contract, between a group of national undertakings' 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 delivery contract, between undertakings or an undertakings' 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) in the absence of any agreement as referred to in point (a) or (b), the law on companies and the law on cooperatives, in so far as they govern the delivery of sugar beet by the shareholders or members of a company or cooperative manufacturing sugar;
 - (d) in the absence of any agreement as referred to in point (a) or (b), the arrangements existing before the conclusion of any delivery contract, provided the sellers accepting the arrangement supply at least 60 % of the total beet bought by the undertaking for the manufacture of sugar in one or more factories;
- 12) 'ACP/Indian sugar' means sugar falling within CN code 1701 originating in the States listed in Annex VI and imported into the Community under:
 - Protocol 3 to Annex V to the ACP-EC Partnership Agreement,
 - or
 - the Agreement on cane sugar between the European Community and the Republic of India ⁽¹⁾;
- 13) 'full-time refiner' means a production unit:
 - of which the sole activity consists of refining imported raw cane sugar,
 - or
 - which refined in the marketing year 2004/2005 a quantity of at least 15 000 tonnes of imported raw cane sugar.

⁽¹⁾ OJ L 190, 23.7.1975, p. 36.

TITLE II
INTERNAL MARKET

CHAPTER 1

Prices

Article 3

Reference prices

1. For white sugar, the reference price shall be:
 - (a) EUR 631,9 per tonne for each of the marketing years 2006/2007 and 2007/2008;
 - (b) EUR 541,5 per tonne for the marketing year 2008/2009;
 - (c) EUR 404,4 per tonne as from the marketing year 2009/2010.
2. For raw sugar, the reference price shall be:
 - (a) EUR 496,8 per tonne for each of the marketing years 2006/2007 and 2007/2008;
 - (b) EUR 448,8 per tonne for the marketing year 2008/2009;
 - (c) EUR 335,2 per tonne as from marketing year 2009/2010.
3. The reference prices referred to in paragraphs 1 and 2 shall apply to unpacked sugar, ex factory. They shall apply to white sugar and raw sugar of the standard quality described in Annex I.

Article 4

Price reporting

The Commission shall set up an information system on prices in the sugar market, including a system for the publication of price levels for the sugar market.

The system shall be based on information submitted by undertakings producing white sugar or by other operators involved in the sugar trade. This information shall be treated with confidentiality. The Commission shall ensure that the information published shall not permit to identify the prices of individual undertakings or operators.

Article 5

Minimum beet price

1. The minimum price for quota beet shall be:
 - (a) EUR 32,86 per tonne for the marketing year 2006/2007;
 - (b) EUR 29,78 per tonne for the marketing year 2007/2008;
 - (c) EUR 27,83 per tonne for the marketing year 2008/2009;
 - (d) EUR 26,29 per tonne as from the marketing year 2009/2010.

2. The minimum price referred to in paragraph 1 shall apply to sugar beet of the standard quality described in Annex I.

3. Sugar undertakings buying quota beet suitable for processing into sugar and intended for processing into quota sugar shall be required to pay at least the minimum price, adjusted by price increases or reductions to allow for deviations from the standard quality.

4. For the quantities of sugar beet corresponding to the quantities of industrial sugar or surplus sugar that are subject to the surplus amount provided for in Article 15, the sugar undertaking concerned shall adjust the purchase price so that it is at least equal to the minimum price for quota beet.

Article 6

Interprofessional agreements

1. Agreements within the trade and delivery contracts shall conform to paragraph 3 and to purchase terms laid down in Annex II, in particular as regards the conditions governing the purchase, delivery, taking over and payment of beet.

2. The terms for buying sugar beet and sugar cane shall be governed by agreements within the trade concluded between Community growers of these raw materials and Community sugar undertakings.

3. In delivery contracts, a distinction shall be made according to whether the quantities of sugar to be manufactured from sugar beet will be:

- quota sugar,
- out-of-quota sugar.

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

- (a) the quantities of beet referred to in the first indent of paragraph 3, for which they have concluded pre-sowing delivery contracts and the sugar content on which those contracts are based;
- (b) the corresponding estimated yield.

Member States may require additional information.

5. Sugar undertakings which have not signed pre-sowing delivery contracts at the minimum price for quota beet for a quantity of beet equivalent to their quota sugar shall be required to pay at least the minimum price for quota beet for all the sugar beet they process into sugar.

6. Subject to the approval of the Member State concerned, agreements within the trade may derogate from paragraphs 3 and 4.

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

CHAPTER 2

Quota production

Article 7

Quota allocation

1. The quotas for the production of sugar, isoglucose and inulin syrup at national or regional level are fixed in Annex III.

2. The Member States shall allocate a quota to each undertaking producing sugar, isoglucose or inulin syrup established in its territory and approved under Article 17.

For each undertaking, the allocated quota shall be equal to the total of the A and B quotas under Regulation (EC) No 1260/2001 which were allocated to the undertaking for the marketing year 2005/2006.

3. In case of allocation of a quota to a sugar undertaking having more than one production unit, the Member States shall adopt the measures they consider necessary in order to take due account of the interests of sugar beet and cane growers.

Article 8

Additional sugar quota

1. By 30 September 2007 at the latest, any sugar undertaking may request from the Member State where it is established the allocation of an additional sugar quota.

The maximum additional sugar quotas per Member State are fixed in point I of Annex IV.

2. On the basis of the requests, the Member State shall determine according to objective and non-discriminatory criteria the quantities which are acceptable. If the sum of these demands for additional quantities exceeds the available national quantity, the Member State concerned shall provide for a proportional reduction of the acceptable quantities. The resulting quantities shall be the additional quota allocated to the undertakings concerned.

3. A one-off amount of EUR 730 shall be levied on the additional quotas that have been allocated to undertakings in accordance with paragraphs 1 and 2. It shall be collected per tonne of additional quota allocated.

4. The totality of the one-off amount paid in accordance with paragraph 3 shall be charged by the Member State to the undertakings on its territory that have been allocated an additional quota.

The payment of the one-off amount by a sugar undertaking concerned shall be made by a deadline to be determined by the Member States. The deadline shall not be later than 28 February 2008.

5. If the sugar undertaking has not paid the one-off amount before 28 February 2008 the additional quotas shall not be considered as allocated to the sugar undertaking concerned.

Article 9

Additional and supplementary isoglucose quota

1. In the marketing year 2006/2007 an isoglucose quota of 100 000 tonnes shall be added to the total of the isoglucose quota fixed in Annex III. In each of the marketing years 2007/2008 and 2008/2009 a further isoglucose quota of 100 000 tonnes shall be added to the quota of the preceding marketing year.

Member States shall allocate the additional quotas to undertakings, proportionately to the isoglucose quotas that have been allocated in accordance with Article 7(2).

2. Italy, Lithuania and Sweden may allocate, upon request by any undertaking established on their respective territories a supplementary isoglucose quota in the period from the marketing year 2006/2007 until the marketing year 2009/2010. The maximum supplementary quotas are fixed per Member State in point II of Annex IV.

3. A one-off amount of EUR 730 shall be levied on the quotas that have been allocated to undertakings in accordance with paragraph 2. It shall be collected per tonne of supplementary quota allocated.

Article 10

Quota management

1. In accordance with the procedure referred to in Article 39(2), the quotas set out in Annex III shall be adjusted by 30 September 2006 at the latest for the marketing year 2006/2007 and by the end of February at the latest of the previous marketing year for each of the marketing years 2007/2008, 2008/2009, 2009/2010 and 2010/2011. The adjustments shall result from the application of Articles 8 and 9, of paragraph 2 of this Article, and of Articles 14 and 19 of this Regulation and of Article 3 of Regulation (EC) No 320/2006.

2. Taking into account the results of the restructuring scheme provided for in Regulation (EC) No 320/2006, the Commission shall decide by the end of February 2010 at the latest, in accordance with the procedure referred to in Article 39(2), the common percentage needed to reduce the existing quotas for sugar, isoglucose and inulin syrup per Member State or region with a view to avoid market imbalances in the marketing years as from 2010/2011.

3. The Member States shall adjust the quota of each undertaking accordingly.

Article 11

National quota reallocation

1. A Member State may reduce the sugar or isoglucose quota as allocated to an undertaking established on its territory:

— by up to 25 % for the marketing years 2006/2007 and 2007/2008 whilst respecting the freedom of undertakings to participate in the mechanisms established by Regulation (EC) No 320/2006,

and

— by up to 10 % for the marketing year 2008/2009 and following.

2. Member States may transfer quotas between undertakings in accordance with the rules laid down in Annex V and taking into consideration the interests of each of the parties concerned, particularly sugar beet and cane growers.

3. The quantities reduced pursuant to paragraphs 1 and 2 shall be allocated by the Member State in question to one or more undertakings on its territory, whether or not holding a quota.

CHAPTER 3

Out-of-quota production

Article 12

Scope

The sugar, isoglucose or inulin syrup produced during a marketing year in excess of the quota referred to in Article 7 may be:

- (a) used for the processing of certain products as referred to in Article 13;
- (b) carried forward to the quota production of the next marketing year, in accordance with Article 14,
- (c) used for the specific supply regime for the outermost regions, in accordance with Title II of Regulation (EC) No 247/2006;

or

- (d) exported within the quantitative limit fixed in accordance with the procedure referred to in Article 39(2) respecting the commitments resulting from agreements concluded under Article 300 of the Treaty.

Other quantities shall be subject to the surplus amount referred to in Article 15.

Article 13

Industrial sugar

1. Industrial sugar, industrial isoglucose or industrial inulin syrup shall be reserved for the production of one of the products referred to in paragraph 2 when:

- (a) it has been subject to a delivery contract concluded before the end of the marketing year between a producer and a user which have both been granted approval under Article 17;

and

- (b) it has been delivered to the user by 30 November of the following marketing year at the latest.

2. In accordance with the procedure referred to in Article 39(2) the Commission shall draw up a list of products for the production of which industrial sugar, industrial isoglucose or industrial inulin syrup is used.

The list shall in particular include:

- (a) bioethanol, alcohol, rum, live yeast and quantities of syrups for spreading and those to be processed into 'Rinse appelstroop';
- (b) certain industrial products without sugar content but the processing of which uses sugar, isoglucose or inulin syrup;
- (c) certain products of the chemical or pharmaceutical industry which contain sugar, isoglucose or inulin syrup.

3. A production refund may be granted on the products listed in Article 1(1)(b) to (e) if surplus sugar or imported sugar, surplus isoglucose or surplus inulin syrup is not available at a price corresponding to the world price for the manufacturing of products referred to in paragraph 2(b) and (c) of this Article.

The production refund shall be fixed taking into account in particular the costs arising from the use of imported sugar which the industry would have to bear in the event of supply on the world market and the price of the surplus sugar available on the Community market or the reference price if there is no surplus sugar.

Article 14

Carry forward of surplus sugar

1. Each undertaking may decide to carry forward all or part of its production in excess of its sugar quota, its isoglucose quota or its inulin syrup quota to be treated as part of the next marketing year's production. Without prejudice to paragraph 3, that decision shall be irrevocable.

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

(a) inform the Member State concerned before a date to be determined by this Member State:

- between 1 February and 30 June of the current marketing year for quantities of cane sugar being carried forward,
- between 1 February and 15 April of the current marketing year for others quantities of sugar or inulin syrup being carried forward;

(b) undertake to store such quantities at their own expense until the end of the current marketing year.

3. If an undertaking's definitive production in the marketing year concerned was less than the estimate made when the decision in accordance with paragraph 1 was taken, the quantity carried forward may be adjusted retroactively by 31 October of the following marketing year at the latest.

4. The quantities carried forward shall be deemed to be the first quantities produced under the quota of the following marketing year.

Article 15

Surplus amount

1. A surplus amount shall be levied on quantities of:

- (a) surplus sugar, surplus isoglucose and surplus inulin syrup produced during any marketing year, except quantities carried forward to the quota production of the following marketing year and stored in accordance with Article 14 or quantities referred to in Article 12(c) and (d);
- (b) industrial sugar, industrial isoglucose and industrial inulin syrup for which no proof has been supplied, by a date to be determined, that it has been processed in one of the products referred to in Article 13(2);
- (c) sugar, isoglucose and inulin syrup withdrawn from the market in accordance with Article 19 and for which the obligations provided for in Article 19(3) are not met.

2. The surplus amount shall be fixed in accordance with the procedure referred to in Article 39(2) at a sufficiently high level in order to avoid the accumulation of quantities referred to in paragraph 1.

3. The surplus amount paid in accordance with paragraph 1 shall be charged by the Member State to the undertakings on its territory according to the quantities of production referred to in paragraph 1 that have been established for the undertakings for the marketing year concerned.

CHAPTER 4

Market management

Article 16

Production charge

1. As from the marketing year 2007/2008, a production charge shall be levied on the sugar quota, the isoglucose quota and the inulin syrup quota held by undertakings producing sugar, isoglucose or inulin syrup.

2. The production charge shall be set at EUR 12,00 per tonne of the quota sugar and quota inulin syrup. For isoglucose, the production charge shall be set at 50 % of the charge applicable to sugar.

3. The totality of the production charge paid in accordance with paragraph 1 shall be charged by the Member State to the undertakings on its territory according to the quota held during the marketing year concerned.

Payments shall be made by the undertakings by the end of February of the relevant marketing year at the latest.

4. Community sugar and inulin syrup undertakings may require sugar-beet or sugar-cane growers or chicory suppliers to bear up to 50 % of the production charge concerned.

Article 17

Approved operators

1. On request, Member States shall grant an approval to an undertaking producing sugar, isoglucose or inulin syrup or to an undertaking that processes these products into a product included in the list referred to in Article 13(2) provided that the undertaking:

- (a) proves his professional production capacities;
- (b) agrees to provide any information and to be subject to controls related to this Regulation;
- (c) is not subject to suspension or withdrawal of the approval.

2. The approved undertakings shall provide the Member State in whose territory the harvest of beet, cane or the refining takes place, with the following information:

- (a) the quantities of beet or cane for which a delivery contract has been concluded, as well as the corresponding estimated yields of beet or cane, and sugar per hectare;
- (b) data regarding provisional and actual sugar beet, sugar cane and raw sugar deliveries, and regarding sugar production and statements of sugar stocks;
- (c) quantities of white sugar sold and corresponding prices and conditions.

Article 18

Private storage and intervention

1. If the average Community price recorded is below the reference price, during a representative period, and is likely to remain at that level, taking into account the market situation, aid for private storage of white sugar may be granted to undertakings which are allocated a sugar quota.

2. Throughout the marketing years 2006/2007, 2007/2008, 2008/2009 and 2009/2010, the intervention agency designated by each sugar-producing Member State shall buy in, up to a total quantity of 600 000 tonnes, expressed in white sugar, per marketing year for the Community, any white or raw sugar offered to it provided that the sugar concerned:

- has been produced under quota and manufactured from beet or cane harvested in the Community,
- has been the subject of a storage contract concluded between the seller and the intervention agency.

Intervention agencies shall buy in at 80 % of the reference price fixed in Article 3 for the marketing year following the marketing year during which the offer is lodged. If the quality of the sugar differs from the standard quality for which the reference price is fixed, this price shall be increased or reduced accordingly.

3. Intervention agencies may sell sugar only at a price which is higher than the reference price fixed for the marketing year in which the sale takes place.

However, it may be decided in accordance with the procedure referred to in Article 39(2), whilst respecting the commitments resulting from agreements concluded under Article 300 of the Treaty, that intervention agencies:

(a) may sell sugar at a price equal to or lower than the reference price referred to in the first subparagraph if the sugar is intended:

- for use as animal feed,

or

- for export, either without further processing or after processing into products listed in Annex I to the Treaty or into goods listed in Annex VII to this Regulation.

(b) 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 organisation — at a price which is lower than the current reference price or free of charge for the distribution as part of individual emergency aid operations.

Article 19

Withdrawal of sugar

1. In order to preserve the structural balance of the market at a price level which is close to the reference price, taking into account the commitments of the Community resulting from agreements concluded in accordance with Article 300 of the Treaty, a percentage, common to all Member States, of quota sugar, quota isoglucose and quota inulin syrup may be withdrawn from the market until the beginning of the following marketing year.

In that case, the traditional supply need for refining imported raw sugar referred to in Article 29(1) of this Regulation shall be reduced by the same percentage for the marketing year concerned.

2. The withdrawal percentage referred to in paragraph 1 shall be determined by 31 October of the marketing year concerned at the latest on the basis of expected market trends during that marketing year.

3. Each undertaking provided with a quota shall store at its own expense during the period of withdrawal the quantities of sugar corresponding to the application of the percentage referred to in paragraph 1 to its production under quota for the marketing year concerned.

The sugar quantities withdrawn during a marketing year shall be treated as the first quantities produced under quota for the following marketing year. However, taking into account the expected sugar market trends, it may be decided, in accordance with the procedure referred to in Article 39(2), to consider, for the current and/or the following marketing year, all or part of the withdrawn sugar, isoglucose or inulin syrup as:

- surplus sugar, surplus isoglucose or surplus inulin syrup available to become industrial sugar, industrial isoglucose or industrial inulin syrup,

or

- temporary quota production of which a part may be reserved for export respecting commitments of the Community resulting from agreements concluded under Article 300 of the Treaty.

4. If sugar supply in the Community is inadequate, it may be decided, in accordance with the procedure referred to in Article 39(2), that a certain quantity of withdrawn sugar, isoglucose and inulin syrup may be sold on the Community market before the end of the period of withdrawal.

Article 20

Storage under different measures

Sugar stored under one of the measures referred to in Article 14, Article 18 or Article 19 during a marketing year may not be subject to private or public storage under any other of those provisions.

TITLE III

TRADE WITH THIRD COUNTRIES

CHAPTER 1

Common provisions on imports and exports

Article 21

Combined Nomenclature

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 the application of this Regulation shall be included in the Common Customs Tariff.

Article 22

General principles

Unless otherwise provided for in this Regulation or in provisions 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 23

Export and import licences

1. Imports into the Community, or exports therefrom, of any of the products listed in Article 1(1), except those under point (h), shall be subject to presentation of an import or export licence. However, derogations may be provided for if licences are not required for the management of certain imports of sugar.

2. Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community, and without prejudice to measures taken for the application of Articles 28 and 32 of this Regulation, of Article 12(5) of Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences ⁽¹⁾ and the application of agreements concluded in accordance with Article 133 or Article 300 of the Treaty.

3. Import and export licences shall be valid throughout the Community.

Licences shall be issued subject to the lodging of a security guaranteeing 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 forfeited in whole or in part if the import or export is not carried out, or is carried out only partially, within that period.

4. The terms of validity of the licences shall be fixed in accordance with the procedure referred to in Article 39(2).

Article 24

Inward processing arrangements

To the extent necessary for the proper functioning of the common organisation of the markets in the sugar sector, the use of inward processing arrangements for the products listed in Article 1(1) may be fully or partially prohibited in accordance with the procedure referred to in Article 39(2).

Article 25

Safeguard measure

1. If, by reasons of imports or exports, the Community market in one or more of the products listed in Article 1(1) is affected by, or is threatened with, serious disturbance likely to jeopardise the achievement of the objectives set out in Article 33 of the Treaty, appropriate measures respecting the Communities' international engagements may be applied in trade until such disturbance or threat has ceased.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures.

If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

The Member States shall be notified of such measures, which shall be immediately applicable.

⁽¹⁾ OJ L 169, 30.6.2005, p. 1.

3. Measures decided on by the Commission pursuant to paragraph 2 may be referred to the Council by any Member State within three working days of the date on which they were notified. The Council shall meet without delay. It may, acting by qualified majority, amend or repeal the measures in question within one month following the date on which they were referred to the Council.

4. However measures applying to Members of the WTO adopted pursuant to this Article shall be applied on the basis of Council Regulation (EC) No 3285/94 of 22 December 1994 on the common rules for imports ⁽¹⁾.

CHAPTER 2

Provisions applicable to imports

Article 26

Import duties

1. Unless this Regulation provides otherwise, the rates of import duty in the Common Customs Tariff shall apply to the products listed in Article 1(1).

2. Notwithstanding paragraph 1, the Commission may suspend in whole or in part for certain quantities the application of import duties on the following products to ensure that the Community market is adequately supplied by means of imports from third countries:

— raw sugar for refining falling within CN codes 1701 11 10 and 1701 12 10,

— molasses falling within CN code 1703.

3. In order to guarantee the supply necessary for the manufacturing of products referred to in Article 13(2), the Commission may suspend in whole or in part for certain quantities the application of import duties on sugar falling within CN code 1701 and isoglucose falling within CN codes 1702 30 10, 1702 40 10, 1702 60 10 and 1702 90 30.

Article 27

Management of imports

1. In order to prevent or counteract adverse effects on the market of the Community which may result from imports of certain products listed in Article 1(1), imports of one or more of such products at the rate of duty laid down in the Common Customs Tariff shall be subject to the payment of an additional import duty if the conditions to be determined pursuant to Article 40(1)(e) are fulfilled, unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

⁽¹⁾ OJ L 349, 31.12.1994, p. 53. Regulation as last amended by Regulation (EC) No 2200/2004 (OJ L 374, 22.12.2004, p. 1).

2. Imports made at a price below the level notified by the Community to the World Trade Organisation ('the trigger price') may be subject to an additional import duty.

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

Cif import prices shall be checked to that end against the representative prices for the product on the world market or on the Community import market for that product.

3. If the volume of imports in any year in which the adverse effects referred to in paragraph 1 arise or are likely to arise exceeds a level based on market access opportunities defined as the percentage of the corresponding domestic consumption during the three previous years ('the trigger volume'), an additional import duty may also be imposed.

Article 28

Tariff quotas

1. Tariff quotas for imports of products listed in Article 1(1) resulting from agreements concluded in accordance with Article 300 of the Treaty or from any other act of the Council shall be opened and administered by the Commission under detailed rules adopted in accordance with the procedure referred to in Article 39(2) of this Regulation.

2. Tariff quotas shall be administered in a manner which avoids any discrimination between the operators concerned, by applying one of the following methods or a combination of them or another appropriate method:

- (a) a method based on the chronological order of the lodging of applications ('first come, first served' principle);
- (b) a method of distribution in proportion to the quantities requested when the applications were lodged (using the 'simultaneous examination method');
- (c) a method based on taking traditional trade patterns into account (using the 'traditional/new arrival method').

3. The method of administration adopted shall, where appropriate, give due weight to the supply requirements of the Community market and the need to safeguard the equilibrium of that market.

Article 29

Traditional supply need for refining

1. Notwithstanding Article 19(1), a traditional supply need of sugar for refining is fixed for the Community at 1 796 351 tonnes per marketing year, expressed in white sugar.

During the marketing years 2006/2007, 2007/2008 and 2008/2009, the traditional supply need shall be distributed as follows:

- 296 627 tonnes for France,
- 291 633 tonnes for Portugal,
- 19 585 tonnes for Slovenia,
- 59 925 tonnes for Finland,
- 1 128 581 tonnes for the United Kingdom.

2. The traditional supply need referred to in the first subparagraph of paragraph 1 shall be increased:

- (a) by 50 000 tonnes in the marketing year 2007/2008 and by 100 000 tonnes as from the marketing year 2008/2009. These quantities shall be made available to Italy in the marketing years 2007/2008 and 2008/2009;
- (b) by 30 000 tonnes as from the marketing year 2006/2007 and by a supplementary 35 000 tonnes as from the marketing year in which the sugar quota has been reduced by at least 50 %.

The quantities referred to in point (b) of the first subparagraph shall concern raw cane sugar and shall be reserved for the marketing years 2006/2007, 2007/2008 and 2008/2009 for the sole sugar beet processing plant at work in 2005 in Portugal. This processing plant is deemed to be a full time refiner.

3. Import licences for sugar for refining shall be issued only to full-time refiners provided that the concerned quantities do not exceed the quantities that may be imported in the framework of the traditional supply need referred to in paragraphs 1 and 2. The licences in question may be transferred only between full-time refiners and their validity expires at the end of the marketing year for which they have been issued.

This paragraph shall apply for the marketing years 2006/2007, 2007/2008 and 2008/2009, and for the first three months of each of the following marketing years.

4. The application of import duties on cane sugar for refining falling within CN code 1701 11 10 originating in the States referred to in Annex VI shall be suspended for the complementary quantity which is needed to allow an adequate supply of the full-time refiners for each of the marketing years 2006/2007, 2007/2008 and 2008/2009.

The complementary quantity shall be fixed in accordance with the procedure referred to in Article 39(2), based on the balance between the traditional supply need referred to in paragraph 1 of this Article and the forecast supply of sugar for refining for the marketing year concerned. This balance may be revised in accordance with the procedure referred to in Article 39(2) during the marketing year and may be based on historic flat-rate estimates of the raw sugar intended for consumption.

Article 30

Guaranteed price

1. The guaranteed prices fixed for the ACP/Indian sugar shall apply for import of standard quality raw and white sugar from:

- (a) the least developed countries under the arrangements referred to in Articles 12 and 13 of Regulation (EC) No 980/2005;
- (b) the States listed in Annex VI to this Regulation for the complementary quantity referred to in Article 29(4).

2. Applications for import licences for sugar benefiting from a guaranteed price shall be accompanied by an export licence issued by the authorities of the exporting country certifying the compliance of the sugar with the rules provided for in the agreements concerned.

Article 31

Sugar Protocol Commitments

In accordance with the procedure referred to in Article 39(2), measures may be adopted to ensure that the ACP/Indian sugar is imported into the Community under the conditions set out in Protocol 3 to Annex V to the ACP-EC Partnership Agreement and the Agreement on cane sugar between the European Community and the Republic of India. Those measures may, if necessary, derogate from Article 29 of this Regulation.

CHAPTER 3

Provisions applicable to exports

Article 32

Scope of export refunds

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

2. Provision may be made for export refunds to be granted on the products listed in Article 1(1)(d) and (g) and exported without further processing or in the form of processed products listed in Annex VII.

In that case, the amount of the refund per tonne 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)(c);
- (c) the economic aspects of the planned exports.

3. The export refund for raw sugar of the standard quality defined in Annex I may not exceed 92 % of that granted for white sugar. However, this limit shall not apply to export refunds to be fixed for candy sugar.

4. Export refunds on the products exported in the form of processed products listed in Annex VII may not be higher than those applicable to the same products exported without further processing.

Article 33

Export refund fixation

1. The quantities which may be exported with an export refund shall be allocated by the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available, account being taken of the efficiency and structure of Community exports without creating discrimination between the operators concerned and notably between large and small operators;
- (b) is least cumbersome administratively for operators, account being taken of administration requirements.

2. Export 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.

Export refunds shall be fixed in accordance with the procedure referred to in Article 39(2).

Refunds may be fixed:

- (a) at regular intervals;
- (b) by invitation to tender for products in respect of which provision was made for that procedure in the past.

Export refunds fixed at regular intervals, may, if necessary, be amended in the interval by the Commission, at the request either of a Member State or on its own initiative.

3. Export refunds on products referred to in Article 32(1) and (2) and exported without further processing shall be granted only on application and on presentation of an export licence.

The export refund applicable to products referred to in Article 32(1) and (2) exported without further processing shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day:

- (a) for the destination indicated on the licence,

or

- (b) where appropriate, for the actual destination if this differs from the destination indicated on the licence, in which case, the amount applicable shall not exceed the amount applicable to the destination indicated on the licence.

4. The scope of paragraph 3 may be extended to apply to the products in question that are exported in the form of processed products listed in Annex VII, in accordance with the procedure referred to in Article 16(2) of Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of the agricultural products ⁽¹⁾. Detailed implementing rules shall be adopted in accordance with that procedure.

Article 34

Export limits

Observance of the volume commitments resulting from the agreements concluded in accordance with Article 300 of the Treaty shall be ensured on the basis of the export licences issued for the reference periods which apply to the products concerned.

Article 35

Export restrictions

1. When the quotations or prices on the world market of one or more of the products listed in Article 1(1) reach a level that disrupts or threatens to disrupt the availability of supply on the Community market and where that situation is likely to continue and deteriorate, appropriate measures may be taken in case of extreme emergency.

⁽¹⁾ OJ L 318, 20.12.1993, p. 18. Regulation as last amended by Regulation (EC) No 2580/2000 (OJ L 298, 25.11.2000, p. 5).

2. Measures adopted pursuant to this Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 300(2) of the Treaty.

TITLE IV

GENERAL, TRANSITIONAL AND FINAL PROVISIONS

CHAPTER 1

General provisions

Article 36

State aid

1. Unless this Regulation provides otherwise, Articles 87, 88 and 89 of the Treaty shall apply to the production of and trade in the products listed in Article 1(1), except for the State aid laid down in paragraphs 2 and 3 of this Article.

2. Member States which reduce their sugar quota by more than 50 %, may grant temporary State aid during the period for which the transitional aid for beet growers is being paid in accordance with chapter 10f of Council Regulation (EC) No 319/2006 of 20 February 2006 amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support scheme for farmers ⁽¹⁾. The Commission shall, on the basis of an application by any Member State concerned, decide on the total amount of the State aid available for this measure.

For Italy, the temporary aid referred to in the first subparagraph, shall not exceed a total of EUR 11 per marketing year per tonne of sugar beet to be granted to sugar beet growers and for the transport of sugar beet.

3. Finland may grant aid up to EUR 350 per hectare per marketing year to sugar beet growers.

4. The Member States concerned shall inform the Commission within 30 days of the end of each marketing year of the amount of State aid actually granted in that marketing year.

Article 37

Disturbance clause

When a substantial rise or fall in prices is recorded on the Community market and:

— all measures available under the other Articles of this Regulation have been taken,

and

⁽¹⁾ See page 32 of this Official Journal.

— the situation is likely to continue disturbing or threatening to disturb the market,

further necessary measures may be taken.

Article 38

Communication

Member States and the Commission shall provide each other with any information necessary for the application of this Regulation and for complying with the international obligations concerning the products referred to in Article 1(1).

Article 39

Management Committee for Sugar

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 paragraph, 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 40

Implementing rules

1. Detailed rules for the implementation of this Regulation shall be adopted in accordance with the procedure referred to in Article 39(2). They shall include in particular:

- (a) detailed rules for the application of Articles 3 to 6, in particular those concerning increases and reductions of prices to be applied for deviations from the standard of the reference price referred to in Article 3(3) and the minimum price referred to in Article 5(3);
- (b) detailed rules for the application of Articles 7 to 10;
- (c) detailed rules for the application of Articles 12, 13, 14 and 15, and in particular the conditions for granting production refunds, the amounts of such refunds and the eligible quantities;
- (d) detailed rules regarding the establishment and the communications of the amounts referred to in Articles 8, 9, 15 and 16;
- (e) detailed rules for the application of Articles 26, 27 and 28. These rules may include in particular:
 - (i) any suspension referred to in Article 26(2) and (3) which could be determined by a tendering procedure;

- (ii) the specification of the products to which additional import duties may be applied under Article 27;
- (iii) the annual tariff quotas under Article 28(1), if necessary suitably phased over the year, and the determination of the administrative method to be used which, where appropriate, shall include:
- guarantees covering the nature, provenance and origin of the product;
 - recognition of the document used for verifying the guarantees referred to in the first indent;
 - the conditions under which import licences shall be issued and their term of validity;
- (f) detailed rules for the application of Articles 36 and 38;
- (g) detailed rules for the application of the provisions of Chapter 3 of Title III. These rules may include in particular:
- (i) detailed rules on the redistribution of exportable quantities which have not been allocated or utilised;
 - (ii) the appropriate measures as referred to in Article 35.
2. The following may in addition be adopted in accordance with the procedure referred to in Article 39(2):
- (a) criteria to be applied by the sugar undertakings when allocating among beet sellers the quantities of beet to be covered by pre-sowing delivery contracts as referred to in Article 6(4);
 - (b) amendments to Annexes I and II;
 - (c) a derogation from the dates laid down in Article 14(2);
 - (d) detailed rules for the application of Articles 16 to 19 and, in particular:
 - (i) the supplementary information to be submitted by the approved operators;
 - (ii) the criteria for sanctions, suspensions and withdrawal of approval of the operators;
 - (iii) the granting of aids and the amount of aids for private storage provided for in Article 18(1);
 - (iv) the minimum quality and quantity requirements, the price increases and reductions applicable, and the procedures and requirements for taking over by the intervention agencies, and for intervention buying in provided for in Article 18(2);
- (v) the percentage of withdrawn quota sugar referred to in Article 19(1);
- (vi) the conditions for the payment of the minimum price in case the withdrawn sugar is being sold on the Community market under Article 19(4);
- (e) rules for the application of the derogation provided for in Article 23(1);
- (f) detailed rules for the application of Articles 29 and 30 and, in particular, to comply with international agreements:
 - (i) amendments to the definition provided for in Article 2(11);
 - (ii) amendments to Annex VI;
- (g) measures in application of Article 37.

Article 41

Amendment to Regulation (EC) No 247/2006

Regulation (EC) No 247/2006 is hereby amended as follows:

- 1) The following paragraph shall be added to Article 16:

'3. France may grant national aid for the sugar sector in the French outermost regions, of up to EUR 60 million for the marketing year 2005/2006 and up to EUR 90 million for the marketing years 2006/2007 onwards.

Articles 87, 88 and 89 of the Treaty shall not apply to the aid referred to in this paragraph.

France shall inform the Commission within 30 days of the end of each marketing year of the amount of aid actually granted.;

- 2) Article 23(2) shall be replaced by the following:

'2. The Community shall finance the measures provided for in Titles II and III of this Regulation up to an annual maximum as follows:

(million EUR)

	Financial year 2007	Financial year 2008	Financial year 2009	Financial year 2010 and further
French overseas departments	126,6	133,5	140,3	143,9
Azores and Madeira	77,9	78,0	78,1	78,2
Canary Islands	127,3	127,3	127,3	127,3'

*Article 42***Specific measures**

Measures which are both necessary and justifiable in an emergency, in order to resolve practical specific problems shall be adopted in accordance with the procedure referred to in Article 39(2).

Such measures may derogate from provisions of this Regulation, but only to the extent that, and for such a period, as is strictly necessary.

*Article 43***Financial provisions**

Regulation (EC) No 1258/1999 and, as from 1 January 2007, Regulation (EC) No 1290/2005, and the provisions adopted for the implementation thereof shall apply to the expenditure incurred by the Member States in carrying out obligations under this Regulation.

CHAPTER 2

Transitional and final provisions*Article 44***Transitional measures**

In accordance with the procedure referred to in Article 39(2), measures may be adopted:

- (a) to facilitate the transition from the market situation in the marketing year 2005/2006 to the market situation in the marketing year 2006/2007, in particular by reducing the quantity

that may be produced under quota, and the transition from the rules provided for in Regulation (EC) No 1260/2001 to those established by this Regulation,

and

- (b) to ensure compliance by the Community with its international obligations with regard to C sugar referred to in Article 13 of Regulation (EC) No 1260/2001 while avoiding any disruption of the sugar market in the Community.

*Article 45***Repeal**

Regulation (EC) No 1260/2001 shall be repealed.

*Article 46***Entry into force**

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

It shall apply from the marketing year 2006/2007. However, Articles 39, 40, 41 and 44 shall apply from the date of entry into force of this Regulation. Title II shall apply until the end of marketing year 2014/2015.

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

Done at Brussels, 20 February 2006.

For the Council
The President
J. PRÖLL

ANNEX I

STANDARD QUALITIES

POINT I

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.

POINT II

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 referred to as '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 referred to as '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 III

Standard quality for raw sugar

1. Raw sugar of the standard quality shall be sugar with a yield in white sugar 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

PURCHASE TERMS FOR BEET

POINT I

For the purposes of this Annex 'Contracting Parties' means:

(a) sugar undertakings (hereinafter referred to as 'manufacturers'),

and

(b) beet sellers (hereinafter referred to as 'sellers').

POINT II

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

POINT III

1. Delivery contracts shall indicate the purchase prices for the quantities of beet referred to in the first indent and, if appropriate, second indent, of Article 6(3). In the case of the quantities referred to in the first indent of Article 6(3), those prices may not be lower than the minimum price for quota beet referred to in Article 5(1).
2. Delivery 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 delivery contract.

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

3. Where a seller has signed a delivery contract with a manufacturer for the delivery of beet as referred to in the first indent of Article 6(3), all deliveries by that seller, converted in accordance with paragraph 2 of this Point, shall be considered to be deliveries within the meaning of the first indent of Article 6(3), up to the quantity of beet specified in the delivery contract.
4. Manufacturers producing a quantity of sugar lower than their quota beet for which they have signed pre-sowing delivery contracts under the first indent of Article 6(3), shall distribute the quantity of beet corresponding to any additional production up to the amount of their quota among the sellers with whom they have signed pre-sowing delivery contracts within the meaning of the first indent of Article 6(3).

Agreements within the trade may derogate from this provision.

POINT IV

1. Delivery contracts shall contain provisions concerning the staggering and normal duration of beet deliveries.
2. Provisions referred to in paragraph 1 shall be those applicable during the previous marketing year, taking account of the level of actual production; agreements within the trade may derogate therefrom.

POINT V

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

POINT VI

1. Delivery contracts shall provide for reception points for beet.
2. Where sellers and manufacturers have already signed a delivery contract for the previous 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. Delivery 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 delivery 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

Delivery 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 growers' trade organisation, if an agreement within the trade so provides;
- (b) by the manufacturer, under the supervision of the beet growers' 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.

POINT IX

1. Delivery contracts shall require manufacturers to do one or more of the following for the whole quantity of beet delivered:
 - (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, pressed, dried or dried and molassed, free of charge to the seller, ex factory;

- (c) to return the pulp, pressed or dried, to the seller, ex factory; in this case, the manufacturer may require the seller to pay the pressing or drying costs;
- (d) to pay the seller compensation which takes account of the possibilities of selling the pulp concerned.

When parts of the whole quantity of beet delivered are subject to different treatment, the delivery contract shall impose more than one of the obligations provided for in the first subparagraph.

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 X

1. Delivery contracts shall fix the time limits for any advance payments and for payment of the purchase price for beet.
2. The time limits referred to in paragraph 1 shall be those valid during the previous marketing year. Agreements within the trade may derogate from this provision.

POINT XI

Where delivery 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 shall not conflict with this Annex.

POINT XII

1. Agreements within the trade as described in Article 2(11)(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 shall not conflict with this Annex.
3. Agreements referred to in paragraph 2 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 quota;
 - (b) rules on distribution as referred to in Point III(4);
 - (c) the conversion scale referred to in Point III(2);
 - (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:
 - (i) the part of the pulp referred to in Point IX(1)(b),
 - (ii) the costs referred to in Point IX(1)(c),
 - (iii) the compensation referred to in Point IX(1)(d);

- (i) the removal of pulp by the seller;
- (j) without prejudice to Article 5(1), rules on how any difference between the reference price and the actual selling price of the sugar is to be allocated between the manufacturer and sellers.

POINT XIII

Where there is no set agreement within the trade as to how the quantities of beet intended for the manufacture of sugar within the 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.

Those 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.

ANNEX III

NATIONAL AND REGIONAL QUOTAS

Member States or regions (1)	(tonnes)		
	Sugar (2)	Isoglucose (3)	Inulin Syrup (4)
Belgium	819 812	71 592	215 247
Czech Republic	454 862	—	—
Denmark	420 746	—	—
Germany	3 416 896	35 389	—
Greece	317 502	12 893	—
Spain	996 961	82 579	—
France (metropolitan)	3 288 747	19 846	24 521
French overseas departments	480 245	—	—
Ireland	199 260	—	—
Italy	1 557 443	20 302	—
Latvia	66 505	—	—
Lithuania	103 010	—	—
Hungary	401 684	137 627	—
Netherlands	864 560	9 099	80 950
Austria	387 326	—	—
Poland	1 671 926	26 781	—
Portugal (mainland.)	69 718	9 917	—
The autonomous region of the Azores	9 953	—	—
Slovakia	207 432	42 547	—
Slovenia	52 973	—	—
Finland	146 087	11 872	—
Sweden	368 262	—	—
United Kingdom	1 138 627	27 237	—
Total	17 440 537	507 680	320 718

ANNEX IV

POINT I

ADDITIONAL QUOTAS FOR SUGAR

<i>(tonnes)</i>	
Member states	Additional quota
Belgium	62 489
Czech Republic	20 070
Denmark	31 720
Germany	238 560
Greece	10 000
Spain	10 000
France (metropolitan)	351 695
Ireland	10 000
Italy	10 000
Latvia	10 000
Lithuania	8 985
Hungary	10 000
Netherlands	66 875
Austria	18 486
Poland	100 551
Portugal (mainland)	10 000
Slovakia	10 000
Slovenia	10 000
Finland	10 000
Sweden	17 722
United Kingdom	82 847
Total	1 100 000

POINT II

SUPPLEMENTARY QUOTAS FOR ISOGLUCOSE

<i>(tonnes)</i>	
Member states	Supplementary quota
Italy	60 000
Lithuania	8 000
Sweden	35 000

ANNEX V

DETAILED RULES ON TRANSFERS OF SUGAR OR ISOGLUCOSE QUOTAS

POINT I

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 quota 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 Member State, 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 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 quota 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 a quota equal to the sum of the 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 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 quota of the undertaking transferring ownership of the factory and shall increase the 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 growers 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 point (b) of 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 6(6) is invoked, the Member State concerned may require the beet growers and the sugar undertakings concerned by that derogation to include in their agreements within the trade special clauses enabling the Member State to apply paragraphs 2 and 3 of this Point.
5. In the event of the lease of a factory belonging to a sugar-producing undertaking, the Member State may reduce the quota 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 I (d) the adjustment of quota under the first subparagraph of this paragraph 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 legislation 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, that Member State may, in agreement with that undertaking and the beet growers 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 or the transfer of an isoglucose-producing factory, 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 the following conditions are met:

- (a) the interests of each of the parties concerned are taken into consideration;
- (b) the Member State concerned considers that they are likely to improve the structure of the beet, cane and sugar-manufacturing sectors;
- (c) they concern undertakings established in the same territory for which the quota is set in Annex III.

POINT V

When the merger or transfer occurs between 1 October and 30 April of the following year, the measures referred to in Points II and III shall take effect for the current marketing year.

When the merger or transfer occurs between 1 May and 30 September of the same year, the measures referred to in Points II and III shall take effect for the following marketing year.

POINT VI

Where Article 10(3) is applied, Member States shall allocate the adjusted quotas by the end of February at the latest with a view to applying them in the following marketing year.

POINT VII

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

ANNEX VI

STATES REFERRED TO IN ARTICLE 2(12)

Barbados

Belize

Côte d'Ivoire

Republic of the Congo

Fiji

Guyana

India

Jamaica

Kenya

Madagascar

Malawi

Mauritius

Mozambique

Saint Kitts and Nevis — Anguilla

Suriname

Swaziland

Tanzania

Trinidad and Tobago

Uganda

Zambia

Zimbabwe

ANNEX VII

PROCESSED PRODUCTS

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 0403 10 99	-- Flavoured or containing added fruit, nuts or cocoa
0403 90	– Other:
0403 90 71 to 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

CN Code	Description
1902 40	– Couscous:
1902 40 90	-- Other
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 31	-- Sweet biscuit
1905 32	-- Waffles and wafers
1905 40	– Rusks, toasted bread and similar toasted products
1905 90	– Other:
	-- Other:
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 mate and preparations with a basis of these products or with a basis of coffee, tea or mate; 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 products or with a basis of these extracts, essences or concentrates or with a basis of coffee:

CN Code	Description
	-- 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 mate, and preparations with a basis of these extracts, essences or concentrates, or with a basis of tea or mate:
	-- 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:
2101 30 19	--- Other
	-- Extracts, essences and concentrates of roasted chicory and other roasted coffee substitute:
2101 30 99	--- 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 2208 50 99	Geneva
2208 70	Liqueurs and cordials
2208 90 41 to 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

COUNCIL REGULATION (EC) No 319/2006**of 20 February 2006****amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third subparagraph of Article 37(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament ⁽¹⁾,

Having regard to the Opinion of the European Economic and Social Committee ⁽²⁾,

Whereas:

- (1) Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector ⁽³⁾ provides for an important reform of the sugar common market organisation. The measures introduced by that Regulation include a significant reduction in the institutional support price for Community sugar in steps.
- (2) As a consequence of reduced market support in the sugar sector, income support for farmers should be increased. The overall level of the payment should develop in parallel with the gradual reduction of market supports.
- (3) The de-coupling of direct producer support and the introduction of the single payment scheme are essential elements in the process of reforming the common agricultural policy aimed at moving away from a policy of price and production support to a policy of farmer income support. Regulation (EC) No 1782/2003 ⁽⁴⁾ introduced those elements for a variety of agricultural products.
- (4) In order to meet the objectives underlying the reform of the common agricultural policy, the support for sugar beet, cane and chicory used for the production of sugar or inulin syrup should be de-coupled and integrated into the single payment scheme.
- (5) Consequently, the rules on direct support schemes laid down in Regulation (EC) No 1782/2003 should be adapted.
- (6) To buffer the effects of the restructuring process in Member States which have granted the restructuring aid provided for in Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community ⁽⁵⁾ for at least 50 % of the quota fixed in Regulation (EC) No 318/2006, sugar beet and cane producers should be granted an aid for a maximum of five consecutive years.
- (7) The level of individual income support should be calculated on the basis of the support the farmer has benefited from in the context of the common organisation of the market in the sugar sector for one or more marketing years to be determined by Member States.
- (8) To ensure the proper application of the support scheme and for reasons of budget control, provision should be made for keeping the overall income support within the limit of national envelopes calculated on the basis of a historical reference year and taking into account, during the four first years, of additional amounts resulting from derived prices.
- (9) Sugar beet and chicory growers in the new Member States have benefited since accession from price support in the framework of Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽⁶⁾. Therefore, the sugar payment and the sugar and chicory components in the single payment scheme should not be subject to the application of the schedule of increments provided for in Article 143a of Regulation (EC) No 1782/2003. For the same reasons, Member States applying the single area payment scheme should, moreover, have the possibility to grant the support resulting from the sugar reform in the form of a separate direct payment outside that scheme.

⁽¹⁾ Opinion delivered on 19 January 2006 (not yet published in the Official Journal).

⁽²⁾ Opinion delivered on 26 October 2005 (not yet published in the Official Journal).

⁽³⁾ See page 1 of this Official Journal.

⁽⁴⁾ OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Commission Regulation (EC) No 2183/2005 (OJ L 347, 30.12.2005, p. 56).

⁽⁵⁾ See page 42 of this Official Journal.

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

- (10) To ensure the proper application of the single payment scheme in the new Member States, provisions should be made regarding specific problems arising as a result of the transition from the single area payment scheme to the single payment scheme.
- (11) Member States that have opted or will opt for applying the single payment scheme only as from 1 January 2007 should be enabled to grant income support to growers of sugar beet, cane and chicory used for the production of sugar and inulin syrup in 2006 in the form of a payment based on the number of hectares of sugar beet, cane or chicory delivered. With regard to the calculation of the sugar beet and chicory component in the single payment scheme, Member States should have the possibility to determine the marketing years to be taken into account on a representative basis.
- (12) In order to solve, as the case may be, problems arising from the change-over from the current regime to the single payment scheme, it is appropriate to confer the power on the Commission to adopt the relevant transitional rules by amending Article 155 of Regulation (EC) No 1782/2003.
- (13) In order to earmark certain newly introduced payments as direct payments, Annex I to Regulation (EC) No 1782/2003 should be adapted.
- (14) In order to take account of the amount of income support provided for with regard to the sugar payment, the national ceilings provided for in Annexes II, VIII and VIIIa to Regulation (EC) No 1782/2003 should be adapted.
- (15) Difficulties have been identified when implementing the aid for energy crops. Article 90 of Regulation (EC) No 1782/2003 should therefore be adapted.
- (16) Regulation (EC) No 1782/2003 should be amended accordingly,
- 2) the following subparagraph shall be added to Article 37(1):
- ‘For sugar beet, cane and chicory used for the production of sugar or inulin syrup the reference amount shall be calculated and adjusted in accordance with point K of Annex VII.’;
- 3) Article 40(2) shall be replaced by the following:
- ‘2. If the whole reference period was affected by the case of force majeure or exceptional circumstances, the Member State shall calculate the reference amount on the basis of the 1997 to 1999 period or, in case of sugar beet, cane and chicory on the basis of the closest marketing year prior to the representative period chosen in accordance with point K of Annex VII. In this case, paragraph 1 shall apply *mutatis mutandis*.’;
- 4) Article 41 shall be amended as follows:
- (a) the following subparagraph shall be added to paragraph 1:
- ‘In the case of chicory and taking into account the latest data made available to it by the Member States until 31 March 2006, the Commission may, in accordance with the procedure referred to in Article 144(2), reallocate the national amounts set out in point K(2) of Annex VII and adapt the national ceilings set out in Annex VIII accordingly without changing the global amounts or the ceilings respectively.’;
- (b) the following paragraph shall be inserted after paragraph 1:

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1782/2003 is amended as follows:

- 1) in Article 33(1), point (a) shall be replaced by the following:
- ‘(a) they have been granted a payment in the reference period referred to in Article 38 under at least one of the support schemes referred to in Annex VI or, in the case of olive oil, in the marketing years referred to in the second subparagraph of Article 37(1), or, in the case of sugar beet, cane and chicory, if they have benefited from market support in the representative period referred to in point K of Annex VII.’;

‘(1a) Where some of the quantities of the quota sugar or the quota inulin syrup were produced in a Member State on the basis of sugar beet, cane or chicory grown in another Member State during any of the marketing years 2000/2001, 2001/2002, 2002/2003, 2003/2004, 2004/2005 or 2005/2006, the ceilings set out in point K of Annex VII and the national ceilings set out in Annexes VIII and VIIIa of the Member States concerned shall be adapted by transferring the amounts corresponding to the relevant quantities from the national ceilings of the Member State where the relevant sugar or inulin syrup was produced to those of the Member State where the relevant quantities of sugar beet, cane or chicory were grown.

The Member States concerned shall inform the Commission by 31 March 2006 of the quantities concerned.

The transfer shall be decided by the Commission in accordance with the procedure referred to in Article 144(2).;

- 5) in Article 43(2), point (a) shall be replaced by the following:

'(a) in case of potato starch, dried fodder, seed, olive groves, and tobacco aids listed in Annex VII, the number of hectares whose production has been granted the aid in the reference period, as calculated in points B, D, F, H, I of Annex VII and, in case of sugar beet, cane and chicory, the number of hectares as calculated in accordance with point 4 of point K of that Annex;'

- 6) the following subparagraph shall be added to Article 63(3):

'However, with regard to the inclusion of the sugar beet, cane and chicory payments component in the single payment scheme, Members States may decide by 30 April 2006, to apply the derogation provided for in the first subparagraph.';

- 7) the following paragraph shall be added to Article 71a:

'3. Any new Member State having applied the single area payment scheme may provide that, in addition to the eligibility conditions established in Article 44(2), "eligible hectare" shall mean any agricultural area of the holding which has been maintained in good agricultural condition at 30 June 2003, whether in production or not at that date.

Any new Member State having applied the single area payment scheme may also provide that the minimum size of eligible area per holding for which payment entitlements shall be established and for which payments shall be granted shall be the minimum size of eligible area of the holding fixed in accordance with the second subparagraph of Article 143b(5).;

- 8) Article 71c shall be replaced by the following:

'Article 71c

Ceiling

The national ceilings of the new Member States shall be those listed in Annex VIIIa. Except for the dried fodder, sugar and chicory components thereof, the ceilings shall be calculated taking account of the schedule of increments provided for in Article 143a, and therefore do not need to be reduced.

Article 41(1a) shall apply mutatis mutandis.;

- 9) Article 71d(1) shall be replaced by the following:

'1. Each new Member State shall proceed to a linear percentage reduction of its national ceiling in order to constitute a national reserve. This reduction shall not be greater than 3 %, without prejudice to the application of Article 71b(3). However, it may exceed 3 % provided that a greater reduction is necessary for the application of paragraph 3 of this Article.';

- 10) in Article 71d(6) the first subparagraph shall be replaced by the following:

'6. Except in case of transfer by actual or anticipated inheritance and of application of paragraph 3, and by way of derogation from Article 46, the entitlements established using the national reserve shall not be transferred for a period of five years starting from their allocation.';

- 11) the following paragraph shall be added to Article 71d:

'7. New Member States may use the national reserve for the purpose of establishing, according to objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, reference amounts for farmers in areas subject to restructuring and/or development programmes relating to one or the other form of public intervention in order to avoid abandoning of land and/or in order to compensate specific disadvantages for farmers in those areas.';

- 12) the following subparagraph shall be added to Article 71e(2):

'However, new Member States having applied the single area payment scheme may be considered as one single region.';

- 13) the following Article shall be added in Chapter VI of Title III:

'Article 71m

Farmers with no eligible hectares

By way of derogation from Articles 36 and 44(2), a farmer who was granted payments referred to in Article 47 or who was acting in a sector referred to in Article 47 and receives payment entitlements in accordance with Article 71d for which he does not have eligible hectares within the meaning of Article 44(2) in the first year of implementation of the single payment scheme, shall be authorised by the Member State to derogate from the obligation to provide a number of eligible hectares equivalent to the number of entitlements on the condition that he maintains at least 50 % of the agricultural activity exercised before the transition to the single payment scheme expressed in livestock units (LU).

In the case of a transfer of payment entitlements, the transferee may benefit from this derogation only if all the payment entitlements subject to the derogation are transferred.;

- 14) the first subparagraph of Article 90 shall be replaced by the following:

The aid shall be granted only in respect of areas whose production is covered by a contract between the farmer and the processing industry or by a contract between the farmer and the collector, except in case of processing undertaken by the farmer himself/herself on the holding.;

- 15) the following Chapters shall be inserted in Title IV:

‘CHAPTER 10e

SUGAR PAYMENT

Article 110p

Transitional sugar payment

1. In case of application of Article 71, farmers may qualify for a transitional sugar payment in respect of the year 2006. It shall be granted within the limits of the amounts set out in point K of Annex VII.

2. Without prejudice to Article 71(2), the amount of the transitional sugar payment per farmer shall be determined by Member States on the basis of objective and non-discriminatory criteria such as:

- the quantities of sugar beet, cane or chicory covered by delivery contracts concluded in accordance with Article 19 of Regulation (EC) No 1260/2001,
- the quantities of sugar or inulin syrup produced in accordance with Regulation (EC) No 1260/2001,
- the average number of hectares under sugar beet, cane or chicory used for the production of sugar or inulin syrup and covered by delivery contracts concluded in accordance with Article 19 of Regulation (EC) No 1260/2001

and in respect of a representative period which could be different for each product of one or more of the marketing years 2004/2005, 2005/2006 and 2006/2007 to be determined by Member States before 30 April 2006.

However, where the representative period includes the marketing year 2006/2007, this marketing year shall be replaced by the marketing year 2005/2006 for farmers affected by a renunciation of quota in the marketing year 2006/2007 as provided for in Article 3 of Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community (*).

Where the marketing year 2006/2007 is chosen, the references to Article 19 of Regulation (EC) No 1260/2001 contained in the first subparagraph shall be replaced by references to Article 6 of Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector (**).

3. Articles 143a and 143c shall not apply to the transitional sugar payment.

CHAPTER 10f

COMMUNITY AID FOR SUGAR BEET AND CANE PRODUCERS

Article 110q

Scope

1. In Member States which have granted the restructuring aid provided for in Article 3 of Regulation (EC) No 320/2006 for at least 50 % of the sugar quota fixed in Annex III of Regulation (EC) No 318/2006, Community aid shall be granted to sugar beet and cane producers.

2. The aid shall be granted for a maximum of five consecutive years as from the marketing year in which the threshold of 50 % referred to in paragraph 1 has been reached but no later than for the marketing year 2013/2014.

Article 110r

Conditions for eligibility

The aid shall be granted in respect of the quantity of quota sugar obtained from sugar beet or cane delivered under contracts concluded in accordance with Article 6 of Regulation (EC) No 318/2006.

Article 110s

Amount of the aid

The aid shall be expressed per tonne of white sugar of standard quality. The amount of the aid shall be equal to half of the amount obtained by dividing the amount of the ceiling referred to in point 2 of point K of Annex VII for the Member State concerned for the corresponding year by the total of the sugar and inulin syrup quota fixed in Annex III of Regulation (EC) No 318/2006.

(*) OJ L 58, 28.2.2006, p. 42.

(**) OJ L 58, 28.2.2006, p. 1.

16) in Article 143b(3), the last indent shall be replaced by the following:

‘— adjusted using the relevant percentage specified in Article 143a for the gradual introduction of direct payments, except for the amounts available in accordance with point 2 of point K of Annex VII or in accordance with the differential between these amounts and those actually applied as referred to in Article 143ba(4).’;

17) the following Article shall be inserted after Article 143b:

*‘Article 143ba***Separate sugar payment**

1. By way of derogation from Article 143b the new Member States applying the single area payment scheme may decide by 30 April 2006, to grant in respect of the years 2006, 2007 and 2008, a separate sugar payment to farmers eligible under the single area payment scheme. It shall be granted on the basis of objective and non-discriminatory criteria such as:

— the quantities of sugar beet, cane or chicory covered by delivery contracts concluded in accordance with Article 19 of Regulation (EC) No 1260/2001,

— the quantities of sugar or inulin syrup produced in accordance with Regulation (EC) No 1260/2001,

— the average number of hectares under sugar beet, cane or chicory used for the production of sugar or inulin syrup and covered by delivery contracts concluded in accordance with Article 19 of Regulation (EC) No 1260/2001

and in respect of a representative period which could be different for each product of one or more of the marketing years 2004/2005, 2005/2006 and 2006/2007 to be determined by Member States before 30 April 2006.

However, where the representative period includes the marketing year 2006/2007, this marketing year shall be replaced by the marketing year 2005/2006 for farmers affected by a renunciation of quota in the marketing year 2006/2007 as provided for in Article 3 of Regulation (EC) No 320/2006.

Where the marketing year 2006/2007 is chosen, the references to Article 19 of Regulation (EC) No 1260/2001 contained in the first subparagraph shall be replaced by references to Article 6 of Regulation (EC) No 318/2006.

2. The separate sugar payment shall be granted within the limits of the ceilings set out in point K of Annex VII.

3. By way of derogation from paragraph 2, each new Member State concerned may decide by 31 March 2006 on the basis of objective criteria to apply for the separate sugar payment a lower ceiling than that listed in point K of Annex VII.

4. The funds made available for granting the separate sugar payment in accordance with paragraphs 1, 2 and 3 shall not be included in the annual financial envelope referred to in Article 143b(3). In case of application of paragraph 3 of this Article the differential between the ceiling listed in point K of Annex VII and that actually applied shall be included in the annual financial envelope referred to in Article 143b(3).

5. Articles 143a and 143c shall not apply to the separate sugar payment.’;

18) the following point shall be inserted in Article 145 after point (d)a):

‘(d)-b) detailed rules relating to the inclusion of sugar beet, cane and chicory support into the single payment scheme and relating to the payments referred to in Chapters 10e and 10f.’;

19) Article 155 shall be replaced by the following:

'Article 155

Other transitional rules

Further measures required to facilitate the transition from the arrangements provided for in the Regulations referred to in Articles 152 and 153 and in Regulation (EC) No 1260/2001 to those established by this Regulation, notably those related to the application of Articles 4 and 5 and the Annex of Regulation (EC) No 1259/1999 and Article 6 of Regulation (EC) No 1251/1999 and from the provisions related to the improvement plans provided for in Regulation (EEC) No 1035/72 to those referred to in Articles 83 to 87 of this

Regulation, may be adopted in accordance with the procedure referred to in Article 144(2) of this Regulation. Regulations and Articles referred to in Articles 152 and 153 shall continue to apply for the purpose of the establishment of the reference amounts referred to in Annex VII.;

20) the Annexes shall be amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply as from 1 January 2006.

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

Done at Brussels, 20 February 2006.

For the Council
The President
J. PRÖLL

ANNEX

The Annexes to Regulation (EC) No 1782/2003 are amended as follows:

- 1) In Annex I after the line for hops the following lines are inserted:

'Sugar beet, cane and chicory used for the production of sugar or inulin syrup	Title IV, Chapter 10e of this Regulation (*****) Title IVa, Article 143ba of this Regulation	Decoupled Payments
Sugar beet and cane used for the production of sugar	Title IV, Chapter 10f of this Regulation	Production aid'

- 2) Annex II is replaced by the following:

'ANNEX II

National ceilings referred to in Article 12(2)

(EUR million)

Member State	2005	2006	2007	2008	2009	2010	2011	2012
Belgium	4,7	6,4	8,0	8,0	8,1	8,1	8,1	8,1
Denmark	7,7	10,3	12,9	12,9	12,9	12,9	12,9	12,9
Germany	40,4	54,6	68,3	68,3	68,3	68,3	68,3	68,3
Greece	45,4	61,1	76,4	76,5	76,6	76,6	76,6	76,6
Spain	56,9	77,3	97,0	97,2	97,3	97,3	97,3	97,3
France	51,4	68,7	85,9	86,0	86,0	86,0	86,0	86,0
Ireland	15,3	20,5	25,6	25,6	25,6	25,6	25,6	25,6
Italy	62,3	84,5	106,4	106,8	106,9	106,9	106,9	106,9
Luxembourg	0,2	0,3	0,4	0,4	0,4	0,4	0,4	0,4
Netherlands	6,8	9,5	12,0	12,0	12,0	12,0	12,0	12,0
Austria	12,4	17,1	21,3	21,4	21,4	21,4	21,4	21,4
Portugal	10,8	14,6	18,2	18,2	18,2	18,2	18,2	18,2
Finland	8,0	10,9	13,7	13,8	13,8	13,8	13,8	13,8
Sweden	6,6	8,8	11,0	11,0	11,0	11,0	11,0	11,0
United Kingdom	17,7	23,6	29,5	29,5	29,5	29,5	29,5	29,5'

- 3) the following row is added to Annex VI:

'Sugar beet, cane and chicory used for the production of sugar or inulin syrup	Regulation (EC) No 1260/2001	Market support to sugar beet or cane growers and producers of chicory used for the production of sugar or inulin syrup'
--	------------------------------	---

- 4) the following point is added to Annex VII:

K. Sugar beet, cane and chicory

1. Member States shall determine the amount to be included in the reference amount of each farmer on the basis of objective and non-discriminatory criteria such as:
 - the quantities of sugar beet, cane or chicory covered by delivery contracts concluded in accordance with Article 19 of Regulation (EC) No 1260/2001

- the quantities of sugar or inulin syrup produced in accordance with Regulation (EC) No 1260/2001
- the average number of hectares under sugar beet, cane or chicory used for the production of sugar or inulin syrup and covered by delivery contracts concluded in accordance with Article 19 of Regulation (EC) No 1260/2001

in respect of a representative period which could be different for each product of one or more marketing years from the marketing year 2000/2001 and, in case of the new Member States from the marketing year 2004/2005, up to the marketing year 2006/2007, and to be determined by Member States before 30 April 2006.

However, where the representative period includes the marketing year 2006/2007, this marketing year shall be replaced by the marketing year 2005/2006 for farmers affected by a renunciation of quota in the marketing year 2006/2007 as provided for in Article 3 of Regulation (EC) No 320/2006.

As regards the marketing years 2000/2001 and 2006/2007 the references to Article 19 of Regulation (EC) No 1260/2001 shall be replaced by references to Article 37 of Regulation (EC) No 2038/1999 (*) and Article 6 of Regulation (EC) No 318/2006.

2. Where the sum of the amounts determined in accordance with point 1 in a Member State exceeds the ceiling expressed in thousands of euros as set out in Table 1 hereafter, the amount per farmer shall be reduced proportionally.

Table 1

Ceilings for the amounts to be included into the reference amount of the farmers

(EUR 1 000)

Member State	2006	2007	2008	2009 and subsequent
Belgium	48 594	62 454	76 315	83 729
Czech Republic	27 851	34 319	40 786	44 245
Denmark	19 314	25 296	31 278	34 478
Germany	154 799	203 380	251 960	277 946
Greece	17 941	22 455	26 969	29 384
Spain	60 272	74 447	88 621	96 203
France	151 163	198 075	244 987	270 081
Hungary	25 435	31 146	36 857	39 912
Ireland	11 259	14 092	16 925	18 441
Italy	79 862	102 006	124 149	135 994
Latvia	4 219	5 164	6 110	6 616
Lithuania	6 547	8 012	9 476	10 260
Netherlands	42 032	54 648	67 265	74 013
Austria	18 931	24 438	29 945	32 891
Poland	99 135	122 906	146 677	159 392
Portugal	3 940	4 931	5 922	6 452
Slovakia	11 813	14 762	17 712	19 289
Slovenia	2 993	3 746	4 500	4 902
Finland	8 255	10 332	12 409	13 520
Sweden	20 809	26 045	31 281	34 082
United Kingdom	64 340	80 528	96 717	105 376

3. By way of derogation from point 2, where in the cases of Finland, Ireland, Portugal, Spain and the United Kingdom, the sum of the amounts determined in accordance with point 1 exceeds the sum of the ceilings set out for the Member State concerned in Table 1, and Table 2 hereafter, the amount per farmer shall be reduced proportionally.

Table 2

Additional annual amounts to be included in the sum of the reference amounts of the farmers during the four years of the period 2006 to 2009

(EUR 1 000)	
Member State	Additional annual amounts
Spain	10 123
Ireland	1 747
Portugal	611
Finland	1 281
United Kingdom	9 985

However, the Member States referred to in the first subparagraph may retain up to 90 % of the amount set out in Table 2 of the first subparagraph and use the amounts resulting therefrom in accordance with Article 69. In that case, the derogation referred to in the first subparagraph shall not apply.

4. Each Member State shall calculate the number of hectares referred to in Article 43(2)(a) proportionately to the amount determined in accordance with point 1 and according to objective and non-discriminatory criteria chosen to that end or on the basis of the number of hectares of sugar beet, cane and chicory declared by the farmers during the representative period fixed in accordance with point 1.

(¹) OJ L 252, 25.9.1999, p. 1. Regulation as repealed by Regulation (EC) No 1260/2001.'

- 5) Annex VIII is replaced by the following:

'ANNEX VIII

National ceilings referred to in Article 41

(EUR 1 000)						
Member State	2005	2006	2007	2008	2009	2010 and subsequent
Belgium	411 053	579 167	592 507	606 368	613 782	613 782
Denmark	943 369	1 015 479	1 021 296	1 027 278	1 030 478	1 030 478
Germany	5 148 003	5 647 000	5 695 380	5 743 960	5 769 946	5 773 946
Greece	838 289	1 719 230	1 745 744	1 750 258	1 752 673	1 790 673
Spain	3 266 092	4 135 458	4 347 633	4 361 807	4 369 389	4 371 266
France	7 199 000	7 382 163	8 289 075	8 335 987	8 361 081	8 369 081
Ireland	1 260 142	1 335 311	1 337 919	1 340 752	1 342 268	1 340 521
Italy	2 539 000	3 544 379	3 566 006	3 588 149	3 599 994	3 632 994
Luxembourg	33 414	36 602	37 051	37 051	37 051	37 051
Netherlands	386 586	428 618	834 234	846 851	853 599	853 599
Austria	613 000	632 931	736 438	741 945	744 891	744 891
Portugal	452 000	497 551	564 542	565 533	566 063	567 452
Finland	467 000	476 536	563 613	565 690	566 801	565 520
Sweden	637 388	670 917	755 045	760 281	763 082	763 082
United Kingdom	3 697 528	3 944 745	3 960 986	3 977 175	3 985 834	3 975 849'

- 6) Annex VIIIa is replaced by the following:

'ANNEX VIIIa

National ceilings referred to in Article 71c

(EUR 1 000)

Calendar year	Czech Republic	Estonia	Cyprus	Latvia	Lithuania	Hungary	Malta	Poland	Slovenia	Slovakia
2005	228 800	23 400	8 900	33 900	92 000	350 800	670	724 600	35 800	97 700
2006	294 551	27 300	12 500	43 819	113 847	445 635	830	980 835	44 893	127 213
2007	377 919	40 400	16 300	60 764	154 912	539 446	1 640	1 263 706	59 846	161 362
2008	469 986	50 500	20 400	75 610	193 076	671 757	2 050	1 572 577	74 600	200 912
2009	559 145	60 500	24 500	90 016	230 560	801 512	2 460	1 870 392	89 002	238 989
2010	644 745	70 600	28 600	103 916	267 260	928 112	2 870	2 155 492	103 002	275 489
2011	730 445	80 700	32 700	117 816	303 960	1 054 812	3 280	2 440 492	117 002	312 089
2012	816 045	90 800	36 800	131 716	340 660	1 181 412	3 690	2 725 592	131 002	348 589
subsequent years	901 745	100 900	40 900	145 616	377 360	1 308 112	4 100	3 010 692	145 102	385 189'

COUNCIL REGULATION (EC) No 320/2006**of 20 February 2006****establishing a temporary scheme for the restructuring of the sugar industry in the Community and amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 36 and the third subparagraph of Article 37(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion from the European Parliament ⁽¹⁾,

Having regard to the Opinion from the European Economic and Social Committee ⁽²⁾,

Whereas:

- (1) Due to developments within the Community and at international level, the sugar industry in the Community is faced with structural problems which could seriously put at stake the competitiveness and even the viability of the industry as a whole. These problems cannot be addressed effectively by using the market management instruments as provided for in the common market organisation for sugar. To bring the Community system of sugar production and trading in line with international requirements and ensure its competitiveness in the future it is necessary to launch a profound restructuring process leading to a significant reduction of unprofitable production capacity in the Community. To this end, as a precondition for the implementation of a functioning new common market organisation for sugar a separate and autonomous temporary scheme for the restructuring of the sugar industry in the Community should be established. Under this scheme quotas should be reduced in a manner that takes account of the legitimate interests of the sugar industry, sugar beet, cane and chicory growers and consumers in the Community.
- (2) A temporary restructuring fund should be set up in order to finance the restructuring measures for the Community sugar industry. For reasons of sound financial management the fund should form part of the Guarantee Section of the EAGGF and thus be governed by the procedures and mechanisms of Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy ⁽³⁾ and, as from 1 January 2007, of the European

Agricultural Guarantee Fund set up by Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy ⁽⁴⁾.

- (3) Owing to the fact that outermost regions are currently the object of development programmes aimed at improving their competitiveness in raw sugar production and also produce raw cane sugar in competition with third countries, which are not subject to the temporary restructuring amount, undertakings in the outermost regions should not fall under the scope of this Regulation.
- (4) The restructuring measures provided for by this Regulation should be financed by raising temporary amounts from those sugar, isoglucose and inulin syrup producers which will eventually benefit from the restructuring process. As this amount falls outside the scope of the charges traditionally known in the framework of the common market organisation for sugar, the proceeds resulting from its collection should be considered as 'assigned revenue' as provided for by Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁵⁾.
- (5) An important economic incentive for sugar undertakings with the lowest productivity to give up their quota production in the form of an adequate restructuring aid should be introduced. To this effect, a restructuring aid should be set up that creates an incentive to abandon sugar quota production and renounce the quotas concerned, at the same time allowing to take into due account the respect of social and environmental commitments linked to the abandoning of production. The aid should be available during four marketing years with the aim to reduce production to the extent necessary to reach a balanced market situation in the Community.
- (6) To support sugar beet, cane and chicory growers that have to give up production due to the closure of factories they had supplied previously, a part of the restructuring aid should be made available to these growers as well as to machinery contractors that have worked for these growers in order to compensate for losses resulting from these closures and in particular the loss of value of investments in specialised machinery.

⁽¹⁾ Opinion delivered on 19 January 2006 (not yet published in the Official Journal).

⁽²⁾ Opinion delivered on 26 October 2005 (not yet published in the Official Journal).

⁽³⁾ OJ L 160, 26.6.1999, p. 103. Regulation as repealed by Regulation (EC) No 1290/2005 (OJ L 209, 11.8.2005, p. 1).

⁽⁴⁾ OJ L 209, 11.8.2005, p. 1.

⁽⁵⁾ OJ L 248, 16.9.2002, p. 1.

- (7) As payments of the restructuring amount into the temporary restructuring fund are made over a certain period of time, it is necessary that payments of the restructuring aid are spread in time.
- (8) The decision as to the granting of the restructuring aid should be taken by the Member State concerned. Undertakings prepared to renounce their quotas should submit an application to this Member State providing the latter with all the relevant information in order to enable it to reach a decision on the aid. Member States should have the possibility to impose certain social and environmental requirements in order to take account of the particularities of the case presented as long as these requirements do not restrict the operation of the restructuring process.
- (9) A restructuring plan should form part of the application for restructuring aid. This plan should provide the Member State concerned with all the relevant technical, social, environmental and financial information allowing it to decide on the granting of the restructuring aid. Member States should take the necessary measures in order to exercise the necessary control over the implementation of all of the elements of the restructuring.
- (10) In the regions concerned by the restructuring process it might prove to be appropriate to encourage the development of alternatives to sugar beet and cane growing and sugar production. To this effect, Member States should have the possibility to allocate a certain part of the money available from the restructuring fund to diversification measures. These measures, established in the context of a national restructuring plan, may take the form of measures identical to certain measures supported under Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ⁽¹⁾ or to measures that are in conformity with Community law regarding State aid.
- (11) In order to speed up the process of restructuring, the aid available for diversification should be increased if the quotas renounced go beyond certain levels.
- (12) Full-time refiners should have the possibility to adapt their situation to the restructuring of the sugar industry. The adaptation should be supported by means of an aid from the restructuring fund provided that the Member State approves the business plan providing for the adaptation. Member States concerned should ensure an equitable break down of the aid available among the full-time refiners on their territory.
- (13) Some specific situations in certain Member States should be taken care of by means of an aid from the restructuring fund provided that it forms part of the national restructuring programme.
- (14) As it is to be funded over a period of three years, the restructuring fund does not dispose from the outset of all the necessary financial means. Rules as to the limitation of the granting of the aid should therefore be established.
- (15) 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 ⁽²⁾.
- (16) The Commission should be authorised to adopt necessary measures to solve specific practical problems in the case of emergency.
- (17) The restructuring fund will finance measures which, due to the nature of the restructuring mechanism, do not fall under the categories of expenditure referred to in Article 3(1) of Regulation (EC) No 1290/2005. It is therefore necessary to amend that Regulation accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Temporary restructuring fund

1. The temporary fund for the restructuring of the sugar industry in the Community (hereinafter referred to as 'restructuring fund') is hereby established.

The restructuring fund shall form part of the Guarantee Section of the European Agricultural Guidance and Guarantee Fund. As from 1 January 2007 it shall form part of the European Agricultural Guarantee Fund (EAGF).

2. The restructuring fund shall finance the expenditure resulting from the measures provided for under Articles 3, 6, 7, 8 and 9.

3. The temporary restructuring amount referred to in Article 11 shall be revenue assigned to the restructuring fund in accordance with Article 18(2) of Regulation (EC, Euratom) No 1605/2002.

Any amount that may be available in the restructuring fund after the financing of the expenditure referred to in paragraph 2 shall be assigned to the EAGF.

⁽¹⁾ OJ L 277, 21.10.2005, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

4. This Regulation shall not apply to the outermost regions referred to in Article 299(2) of the Treaty.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- 1) 'isoglucose' means the product obtained from glucose or its polymers with a content by weight in the dry state of at least 10 % fructose;
- 2) 'inulin syrup' means the immediate product obtained by hydrolysis of inulin or oligofructoses, containing in the dry state at least 10 % fructose in free form or as sucrose, and expressed as sugar/isoglucose equivalents;
- 3) 'agreement within the trade' means one of the following:
 - (a) an agreement concluded at Community level, prior to the conclusion of any delivery contract, between a group of national undertakings' 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 delivery contract, between undertakings or a undertakings' 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) in the absence of any agreement as referred to in point (a) or (b), the law on companies and the law on cooperatives, in so far as they govern the delivery of sugar beet by the shareholders or members of a company or cooperative manufacturing sugar;
 - (d) in the absence of any agreement as referred to in point (a) or (b), the arrangements existing before the conclusion of any delivery contract, provided the sellers accepting the arrangement supply at least 60 % of the total beet bought by the undertaking for the manufacture of sugar in one or more factories;
- 4) 'marketing year' means the period beginning on 1 October and ending on 30 September of the following year. By way of exception, the marketing year 2006/2007 begins on 1 July 2006;
- 5) 'full time refiner' means a production unit:
 - of which the sole activity consists of refining imported raw cane sugar
 - or
 - which refined in the marketing year 2004/2005 a quantity of at least 15 000 tonnes of imported raw cane sugar;

- 6) 'quota' means any quota for the production of sugar, isoglucose and inulin syrup allocated to an undertaking in accordance with Articles 7(2), 8(1), 9(1) and (2) and Article 11 of Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector ⁽¹⁾.

Article 3

Restructuring aid

1. Any undertaking producing sugar, isoglucose or inulin syrup to which a quota has been allocated by 1 July 2006 shall be entitled to a restructuring aid per tonne of quota renounced, provided that during one of the marketing years 2006/2007, 2007/2008, 2008/2009 and 2009/2010 it:

- (a) renounces the quota assigned by it to one or more of its factories and fully dismantles the production facilities of the factories concerned;
 - (b) renounces the quota assigned by it to one or more of its factories, partially dismantles the production facilities of the factories concerned and does not use the remaining production facilities of the factories concerned for the production of products covered by the common market organisation for sugar,
- or
- (c) renounces a part of the quota assigned by it to one or more of its factories and does not use the production facilities of the factories concerned for refining raw sugar.

This last condition shall not apply in respect of:

- the sole processing plant in Slovenia,
- the sole beet processing plant in Portugal,

existing on 1 January 2006.

For the purpose of this Article, dismantling of production facilities during the marketing year 2005/2006 shall be deemed to take place in the marketing year 2006/2007.

2. Restructuring aid shall be granted in respect of the marketing year for which the quotas are renounced in accordance with paragraph 1 and only for the quantity of quota renounced and not reallocated.

The quota may only be renounced after consultations conducted in the framework of the relevant agreements within the trade.

⁽¹⁾ See page 1 of this Official Journal.

3. Full dismantling of production facilities shall require:
- (a) the definitive and total cessation of the production of sugar, isoglucose and inulin syrup by the production facilities concerned;
 - (b) the closure of the factory or the factories and the dismantling of the production facilities thereof within the period referred to in point (d) of Article 4(2),
- and
- (c) the restoring of the good environmental conditions of the factory site and the facilitation of redeployment of the workforce within the period referred to in point (f) of Article 4(2). Member States may require the undertakings referred to in paragraph 1 to make commitments which go beyond the statutory minimum requirements imposed by Community law. However, such commitments shall not restrict the operation of the restructuring fund as an instrument.
4. Partial dismantling of production facilities shall require:
- (a) the definitive and total cessation of the production of sugar, isoglucose and inulin syrup by the production facilities concerned;
 - (b) the dismantling of the production facilities that will not be used for the new production and were destined and used for the production of the products mentioned under (a), within the period referred to in point (e) of Article 4(2);
 - (c) the restoring of the good environmental conditions of the factory site and the facilitation of redeployment of the workforce within the period referred to in point (f) of Article 4(2), insofar as necessitated by the cessation of the production of the products mentioned under (a). Member States may require the undertakings referred to in paragraph 1 to make commitments which go beyond the statutory minimum requirements imposed by Community law. However, such commitments shall not restrict the operation of the restructuring fund as an instrument.
5. The amount of restructuring aid per tonne of renounced quota shall be:
- (a) in the case referred to in point (a) of paragraph 1:
 - EUR 730,00 for the marketing year 2006/2007,
 - EUR 730,00 for the marketing year 2007/2008,
 - EUR 625,00 for the marketing year 2008/2009,
 - EUR 520,00 for the marketing year 2009/2010;
 - (b) in the case referred to in point (b) of paragraph 1:
 - EUR 547,50 for the marketing year 2006/2007,
 - EUR 547,50 for the marketing year 2007/2008,
 - EUR 468,75 for the marketing year 2008/2009,
 - EUR 390,00 for the marketing year 2009/2010;
 - (c) in the case referred to in point (c) of paragraph 1:
 - EUR 255,50 for the marketing year 2006/2007,
 - EUR 255,50 for the marketing year 2007/2008,
 - EUR 218,75 for the marketing year 2008/2009,
 - EUR 182,00 for the marketing year 2009/2010.
6. An amount of at least 10 % of the relevant restructuring aid fixed in paragraph 5 shall be reserved for:
- growers of sugar beet, cane and chicory having delivered these products during a period preceding the marketing year referred to in paragraph 2 for the production of sugar or inulin syrup under the relevant quota renounced,
- and
- machinery contractors, being private persons or enterprises having worked under contract with their agricultural machinery for the growers, for the products and in the period referred to in the first indent.
- After consultation of the interested parties, Member States shall determine the applicable percentage as well as the period referred to in the first subparagraph provided that an economically sound balance between the elements of the restructuring plan as referred to in Article 4(3) is ensured.
- Member States shall grant the aid on the basis of objective and non-discriminatory criteria, taking into account the losses resulting from the restructuring process.
- The amount resulting from the application of the first and second subparagraphs shall be deducted from the applicable amount referred to in paragraph 5.

Article 4

Application for restructuring aid

1. Applications for restructuring aid shall be submitted to the Member State concerned by 31 January preceding the marketing year during which the quota is to be renounced.

However, applications in respect of the marketing year 2006/2007 shall be submitted by 31 July 2006.

2. Applications for restructuring aid shall include:

- (a) a restructuring plan;
- (b) a confirmation that the restructuring plan has been prepared in consultation with the sugar beet, cane and chicory growers;
- (c) a commitment to renounce the relevant quota in the marketing year concerned;
- (d) in the case referred to in Article 3(1)(a), a commitment to fully dismantle the production facilities within the period to be determined by the Member State concerned;
- (e) in the case referred to in Article 3(1)(b), a commitment to partially dismantle the production facilities within the period to be determined by the Member State concerned and not to use the production site and the remaining production facilities for the production of products covered by the common market organisation for sugar;
- (f) in the cases referred to in Article 3(1)(a) and Article 3(1)(b), a commitment to meet the requirements provided for in, respectively, Article 3(3)(c) and Article 3(4)(c) within the period to be determined by the Member State concerned;
- (g) in the case referred to in Article 3(1)(c), if applicable, a commitment not to use the production facilities for refining raw sugar.

The respect of the commitments under points (c) to (g) shall be subject to a decision granting the aid as referred to in Article 5(1).

3. The restructuring plan referred to in paragraph 2(a) shall include at least the following elements:

- (a) a presentation of the purposes and the actions foreseen, demonstrating a sound economic balance between them and their consistency with the objectives of the restructuring fund and of the rural development policy in the region concerned as approved by the Commission;
- (b) the aid to be granted to growers of sugar beet, cane or chicory and, if appropriate, machinery contractors in accordance with Article 3(6);
- (c) a complete technical description of the production facilities concerned;

- (d) a business plan detailing the modalities, timetable and costs for the closure of the factory or factories and the full or partial dismantling of the production facilities;
- (e) if appropriate, the scheduled investments;
- (f) a social plan detailing the actions planned in particular with respect to re-training, redeployment and early retirement of the workforce concerned and, if applicable, national specific requirements provided for in accordance with Article 3(3)(c) or Article 3(4)(c);
- (g) an environmental plan detailing the actions planned in particular to respect mandatory environmental obligations and, if applicable, national specific requirements provided for in accordance with Article 3(3)(c) or Article 3(4)(c);
- (h) a financial plan detailing all the costs in relation to the restructuring plan.

Article 5

Decision on the restructuring aid and controls

1. By the end of February preceding the marketing year referred to in Article 3(2), Member States shall decide on the granting of the restructuring aid. However, the decision for the marketing year 2006/2007 shall be adopted by 30 September 2006.

2. The restructuring aid shall be granted if the Member State has established after thorough verification that:

- the application contains the elements referred to in Article 4(2),
 - the restructuring plan contains the elements referred to in Article 4(3),
 - the measures and actions described in the restructuring plan are in conformity with the relevant Community and national legislation;
- and
- the necessary financial resources are available in the restructuring fund, on the basis of information obtained from the Commission.

3. If one or more of the conditions laid down in the first three indents of paragraph 2 are not respected, the application for the restructuring aid shall be returned to the applicant. The applicant shall be informed of the conditions that are not respected. The applicant may then either withdraw or complete his application.

4. Notwithstanding the control obligations referred to in Regulation (EC) No 1290/2005, Member States shall monitor, control and verify the implementation of the restructuring aid as approved by it.

Article 6

Aid for diversification

1. An aid for diversification measures in regions affected by the restructuring of the sugar industry may be granted in any Member State in relation to the sugar quota renounced by undertakings established in that Member State in one of the marketing years 2006/2007, 2007/2008, 2008/2009 and 2009/2010.

2. The total amount of aid available to a Member State shall be established on the basis of:

- EUR 109,50 per tonne of sugar quota renounced in the marketing year 2006/2007,
- EUR 109,50 per tonne of sugar quota renounced in the marketing year 2007/2008,
- EUR 93,80 per tonne of sugar quota renounced in the marketing year 2008/2009,
- EUR 78,00 per tonne of sugar quota renounced in the marketing year 2009/2010.

3. Member States which decide to grant aid for diversification referred to in paragraph 1 or transitional aid referred to in Article 9 shall establish national restructuring programmes detailing the diversification measures to be undertaken in the regions concerned and inform the Commission of these programmes.

4. Notwithstanding paragraph 5, to be eligible for aid referred to in paragraph 1 diversification measures shall correspond to one or more of the measures envisaged under Axis 1 and Axis 3 of Regulation (EC) No 1698/2005.

Member States shall fix criteria in order to distinguish the measures for which an aid for diversification may be granted from the measures for which Community support may be granted under Regulation (EC) No 1698/2005.

The aid referred to in paragraph 1 shall not be higher than the ceilings for the EAFRD contribution laid down in Article 70(3)(a) of Regulation (EC) No 1698/2005.

5. Diversification measures which differ from the measures envisaged under Axis 1 and Axis 3 of Regulation (EC) No 1698/2005 shall be eligible for the aid referred to in paragraph 1 provided that they are in conformity with the criteria set out in Article 87(3) of the Treaty and, in particular, with the aid intensities and the eligibility criteria laid down in the Commission guidelines on State aid in the agricultural sector.

6. Member States shall not grant national aid in respect of diversification measures provided for in this Article. However, if the ceilings referred to in the third subparagraph of paragraph 4 were to permit the granting of an aid for diversification of 100 %, the Member State concerned shall contribute at least 20 % of the eligible expenditure. In this case, Articles 87, 88 and 89 of the Treaty shall not apply.

Article 7

Additional aid for diversification

1. The total amount of aid available to a Member State in accordance with Article 6(2) shall be increased by:

- 50 % once the national sugar quota fixed in Annex III of Regulation (EC) No 318/2006 for that Member State has been renounced by at least 50 % but less than 75 %,
- another 25 % once the national sugar quota fixed in Annex III of Regulation (EC) No 318/2006 for that Member State has been renounced by at least 75 % but less than 100 %,
- another 25 % once the national sugar quota fixed in Annex III of Regulation (EC) No 318/2006 for that Member State has been completely renounced.

Any increase shall be available in the marketing year in which the quantity of the national sugar quota renounced reaches, as the case may be, 50, 75 or 100 %.

2. The Member State concerned shall decide whether the aid corresponding to the increase laid down in paragraph 1 shall be granted for diversification measures referred to in Article 6(1) and/or to growers of sugar beet or cane giving up their production in the regions affected by the restructuring. The aid to growers shall be granted according to objective and non-discriminatory criteria.

Article 8

Transitional aid to full-time refiners

1. A transitional aid shall be granted to full-time refiners so as to allow them to adapt to the restructuring of the sugar industry in the Community.

2. To this end, an amount of EUR 150 million shall be made available for the total of the four marketing years 2006/2007, 2007/2008, 2008/2009 and 2009/2010.

The amount fixed in the first subparagraph shall be divided as follows:

- EUR 94,3 million for full-time refiners in the United Kingdom,
- EUR 24,4 million for full-time refiners in Portugal,
- EUR 5,0 million for full-time refiners in Finland,
- EUR 24,8 million for full-time refiners in France,
- EUR 1,5 million for full-time refiners in Slovenia.

3. The aid shall be granted on the basis of a business plan approved by the Member State relating to the adaptation of the situation of the full-time refiner concerned to the restructuring of the sugar industry.

Member States shall grant the aid on the basis of objective and non-discriminatory criteria.

Article 9

Transitional aid to certain Member States

In the context of the national restructuring programme referred to in Article 6(3):

- (a) an aid of not more than EUR 9 million shall be granted in Austria for investments in collection centres of sugar beet and other logistical infrastructure needed as a consequence of restructuring;
- (b) an aid of not more than EUR 5 million shall be granted in Sweden for the direct or indirect benefit of sugar beet growers in Gotland and Öland giving up sugar production as part of the national restructuring process.

Article 10

Financial limits

1. Any aid referred to in Articles 3, 6, 7, 8 and 9 claimed for any of the marketing years 2006/2007, 2007/2008, 2008/2009 and 2009/2010 shall be granted only within the limit of the appropriations available in the restructuring fund.

2. Where, on the basis of the applications submitted for a marketing year and found eligible by the Member State concerned, the overall amount of aid to be granted exceeds the limit for that marketing year, the granting of aid, shall be based on the chronological order of the lodging of applications for aid ('first come, first served' principle).

3. The aids referred to in Articles 6, 7, 8 and 9 shall be independent of the aid referred to in Article 3.

4. The restructuring aid referred to in Article 3 shall be paid in two instalments:

- 40 % in June of the marketing year referred to in Article 3(2),

and

- 60 % in February of the following marketing year.

However, the Commission may decide to split the instalment referred to in the second of the preceding indents into two payments, as follows:

- a first payment in February of the following marketing year,

and

- a second payment at a later date when the necessary financial resources have been paid into the restructuring fund.

5. The Commission may decide to postpone the payment of the aids referred to in Articles 6, 7, 8 and 9 until the necessary financial resources have been paid into the restructuring fund.

Article 11

Temporary restructuring amount

1. A temporary restructuring amount shall be paid per marketing year per tonne of quota by those undertakings to which a quota has been allocated.

Quotas that have been renounced by an undertaking as from a given marketing year in accordance with Article 3(1) shall not be subject to the payment of the temporary restructuring amount for this marketing year and subsequent marketing years.

2. The temporary restructuring amount for sugar and inulin syrup shall be set at:

- EUR 126,40 per tonne of quota for the marketing year 2006/2007,

— EUR 173,8 per tonne of quota for the marketing year 2007/2008,

— EUR 113,3 per tonne of quota for the marketing year 2008/2009.

The temporary restructuring amount per marketing year for iso-glucose shall be set at an amount equal to 50 % of the amounts fixed in the first subparagraph.

3. Member States shall be liable to the Community for the temporary restructuring amount to be collected on their territory.

Member States shall pay the temporary restructuring amount to the restructuring fund in two instalments, as follows:

— 60 % by 31 March of the marketing year concerned,

and

— 40 % by 30 November of the following marketing year.

4. If the temporary restructuring amount is not paid before the due date, the Commission shall, after consultation of the Committee on the Agricultural Funds, deduct a sum equivalent to the unpaid restructuring amount from the monthly advances on the provision for expenditure effected by the Member State concerned, referred to in Article 14(1) and Article 15(2) of Council Regulation (EC) No 1290/2005. Before taking its decision, the Commission shall give the Member State the opportunity to submit its observations within a period of two weeks. The provisions of Article 14 of Council Regulation (EC) No 2040/2000 ⁽¹⁾ shall not apply.

5. The totality of the temporary restructuring amounts to be paid in accordance with paragraph 3 shall be allocated by the Member State among the undertakings on its territory according to the allocated quota during the marketing year concerned.

Undertakings shall pay the temporary restructuring amounts in two instalments, as follows:

— 60 % by the end of February of the marketing year concerned,

and

— 40 % by 31 October of the following marketing year.

⁽¹⁾ OJ L 244, 29.9.2000, p. 27.

Article 12

Detailed rules

Detailed rules for the implementation of this Regulation and, in particular as regards the requirements provided for in Article 3 and the measures necessary to resolve transitional difficulties, shall be adopted in accordance with the procedure referred to in Article 13 of Regulation (EC) No 1258/1999, or, as from 1 January 2007, referred to in Article 41(2) of Regulation (EC) No 1290/2005.

Article 13

Specific measures

Measures which are both necessary and justifiable in an emergency, in order to resolve practical specific problems shall be adopted in accordance with the procedure referred to in Article 13 of Regulation (EC) No 1258/1999 or, as from 1 January 2007, that referred to in Article 41(2) of Regulation (EC) No 1290/2005.

Such measures may derogate from certain parts of this Regulation, but only to the extent that, and for such a period, as is strictly necessary.

Article 14

Amendments to Regulation (EC) No 1290/2005

Regulation (EC) No 1290/2005 is hereby amended as follows:

1) The following point shall be added to Article 3(1):

'(e) restructuring aid, aid for diversification, additional aid for diversification and transitional aid provided for in Articles 3, 6, 7, 8 and 9 of Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community ^(*).

^(*) OJ L 58, 28.2.2006, p. 42.;

2) Article 34 shall be amended as follows:

(a) the following point shall be added to paragraph 1:

'(c) temporary restructuring amounts collected under Regulation (EC) No 320/2006.'

(b) in paragraph 2 the words ‘The sums referred to in paragraph 1(a) and (b)’ shall be replaced by ‘The sums referred to in paragraphs 1(a), (b) and (c)’.

(c) the following paragraph shall be added:

‘(3) The provisions of this Regulation shall apply *mutatis mutandis* to assigned revenue referred to in paragraph 1 of this Article.’

Article 15

Entry into force

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

It shall apply from 1 July 2006. However, Articles 12 and 13 shall apply from the date of entry into force of this Regulation.

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

Done at Brussels, 20 February 2006.

For the Council
The President
J. PRÖLL
