

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.