

Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector (repealed)

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:

<b>CN Code</b>	<b>Description</b>
(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
	2106 90 59 Flavoured or coloured sugar syrups, other than isoglucose, lactose, glucose and maltodextrine syrups
(d)	1702 30 10 1702 40 10 1702 60 10 1702 90 30 Isoglucose

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*Status: This is the original version (as it was originally adopted).*

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(e)	1702 60 80 1702 90 80	Inulin syrup
(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

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<sup>(1)</sup>;
- 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.

## 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<sup>(2)</sup> 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.

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<sup>(3)</sup>.

## 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.

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<sup>(4)</sup>. 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.

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<sup>(5)</sup>. 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
  - 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)*

	<b>Financial year 2007</b>	<b>Financial year 2008</b>	<b>Financial year 2009</b>	<b>Financial year 2010 and further</b>
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.

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*Status: This is the original version (as it was originally adopted).*

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Done at Brussels, 20 February 2006.

*For the Council*

*The President*

J. PRÖLL



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*Status: This is the original version (as it was originally adopted).*

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- (1) OJ L 190, 23.7.1975, p. 36.
- (2) OJ L 169, 30.6.2005, p. 1.
- (3) 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).
- (4) 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).
- (5) See page 32 of this Official Journal.