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COUNCIL REGULATION (EC) No 318/2006
of 20 February 2006
on the common organisation of the markets in the sugar sector
(OJ L 58, 28.2.2006, p. 1)

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► <u>M2</u>	Council Regulation (EC) No 2011/2006 of 19 December 2006	L 384	1	29.12.2006
► <u>M3</u>	Commission Regulation (EC) No 247/2007 of 8 March 2007	L 69	3	9.3.2007
► <u>M4</u>	Council Regulation (EC) No 1182/2007 of 26 September 2007	L 273	1	17.10.2007
► <u>M5</u>	Council Regulation (EC) No 1260/2007 of 9 October 2007	L 283	1	27.10.2007

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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(EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽³⁾ should be repealed and replaced by a new Regulation.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.

⁽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).

▼ B

- (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.
- (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

⁽¹⁾ See page 42 of this Official Journal.

▼B

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.
- (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

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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

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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

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

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30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union ⁽¹⁾. 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 ⁽²⁾, 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
	2106 90 59	Flavoured or coloured sugar syrups, other than isoglucose, lactose, glucose and maltodextrine syrups
(d)	1702 30 10	Isoglucose
	1702 40 10	
	1702 60 10	
	1702 90 30	

⁽¹⁾ OJ L 42, 14.2.2006, p. 1.

⁽²⁾ 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).

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	CN Code	Description
(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;

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- 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.

TITLE II**INTERNAL MARKET***CHAPTER I***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;

⁽¹⁾ OJ L 190, 23.7.1975, p. 36.

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- (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.

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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.

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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 the sugar for which they hold a quota, adjusted, as the case may be, by the coefficient for a preventive withdrawal fixed in accordance with the first subparagraph of Article 19(2), 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, 4 and 5.

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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.

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For the purposes of this paragraph, in the case of Bulgaria and Romania the marketing year shall be that of 2006/2007.

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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.

▼B*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****▼M2**

1. In the marketing year 2006/2007 an isoglucose quota of 100 000 tonnes shall be added to the total of 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. This increase shall not concern Bulgaria and Romania.

In each of the marketing years 2007/2008 and 2008/2009 a further isoglucose quota of 11 045 tonnes for Bulgaria and of 1 966 tonnes for Romania 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).

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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.

▼ M5*Article 10***Quota management**

1. In accordance with the procedure referred to in Article 39(2), the quotas set out in Annex III of this Regulation shall be adjusted by 30 April 2008 for the 2008/2009 marketing year and by the end of February 2009 and 2010 respectively for the 2009/2010 and 2010/2011 marketing years. The adjustments shall result from the application of Articles 8 and 9 of this Regulation, of paragraph 2 of this Article, and of Articles 3 and 4a(4) 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) of this Regulation, the common percentage needed to reduce the existing quotas for sugar and isoglucose per Member State or region with a view to avoiding market imbalances in the marketing years as from the 2010/2011 marketing year. The Member States shall adjust the quota of each undertaking accordingly.

By way of derogation from the first subparagraph of this paragraph, for Member States for which the national quota has been reduced as a result of renunciations of quota in accordance with Articles 3 and 4a(4) of Regulation (EC) No 320/2006, the percentage shall be fixed, in accordance with the procedure referred to in Article 39(2) of this Regulation, by way of application of Annex VIII to this Regulation. Such Member States shall adjust, for each undertaking in their territory holding a quota, the percentage in accordance with Annex IX of this Regulation.

The first and second subparagraphs of this paragraph shall not apply to the outermost regions referred to in Article 299(2) of the Treaty.

*Article 11***National quota reallocation and reduction of quotas**

1. A Member State may reduce the sugar or isoglucose quota allocated to an undertaking established on its territory by up to 10 % for the marketing year 2008/2009 and following, whilst respecting the freedom of undertakings to participate in the mechanisms established by Regulation (EC) No 320/2006. In doing so, the Member States shall apply objective and non discriminatory criteria.

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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.

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4. By way of derogation from paragraph 3 of this Article, where Article 4a of Regulation (EC) No 320/2006 is applied, Member States shall adjust the sugar quota allocated to the undertaking concerned by applying the reduction defined under paragraph 4 of that Article, within the limit of the percentage fixed in paragraph 1 of this Article.



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

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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);

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- (c) sugar and isoglucose withdrawn from the market in accordance with Articles 19 and 19a and for which the obligations provided for in Article 19(3) are not met.

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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.

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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,

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or

- for industrial use referred to in Article 13.

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- (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.

▼M5*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, the Commission may decide to withdraw from the market, for a given marketing year, those quantities of sugar or isoglucose produced under quotas which exceed the threshold calculated in accordance with paragraph 2 of this Article.

2. The withdrawal threshold referred to in paragraph 1 of this Article shall be calculated, for each undertaking holding a quota, by multiplying its quota by a coefficient, which shall be fixed in accordance with the procedure referred to in Article 39(2) by 16 March at the latest of the

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previous marketing year, on the basis of expected market trends. For the marketing year 2008/2009, that coefficient shall be applied to the quota after renunciations in accordance with Regulation (EC) No 320/2006 granted on 15 March 2008 at the latest.

On the basis of updated market trends, the Commission, in accordance with the procedure referred to in Article 39(2), may decide by 31 October of the marketing year concerned either to adjust or, in the case where no such decision has been taken in accordance with the first subparagraph of this paragraph, to fix a coefficient.

3. Each undertaking provided with a quota shall store at its own expense until the beginning of the following marketing year the sugar produced under quota beyond the threshold calculated in accordance with paragraph 2. The sugar or isoglucose quantities withdrawn during a marketing year shall be treated as the first quantities produced under quota for the following marketing year.

By way of derogation from the first subparagraph of this paragraph, 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 or isoglucose as:

- (a) surplus sugar or surplus isoglucose available to become industrial sugar or industrial isoglucose; or
- (b) temporary quota production of which a part may be reserved for export respecting the commitments of the Community resulting from agreements concluded in accordance with 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 may be sold on the Community market before the end of the period of withdrawal.

5. In the case where withdrawn sugar is treated as the first sugar production of the following marketing year, the minimum price of that marketing year shall be paid to beet growers.

In the case where withdrawn sugar becomes industrial sugar or is exported according to points (a) and (b) of paragraph 3 of this Article, the requirements of Article 5 on the minimum price shall not apply.

In the case where withdrawn sugar is sold on the Community market before the end of the period of withdrawal according to paragraph 4, the minimum price of the on going marketing year shall be paid to beet growers.

Article 19a

Withdrawal of sugar in the 2007/2008, 2008/2009 and 2009/2010 marketing years

1. By way of derogation from Article 19(2) of this Regulation, for Member States for which the national sugar quota has been reduced as a result of renunciations of quota in accordance with Articles 3 and 4a(4) of Regulation (EC) No 320/2006, the coefficient shall be fixed, in accordance with the procedure referred to in Article 39(2) of this Regulation, for the 2007/2008, 2008/2009 and 2009/2010 marketing years by way of application of Annex X to this Regulation.

2. An undertaking which, in accordance with points (a) or (b) of Article 3(1) of Regulation (EC) No 320/2006, renounces, with effect from the following marketing year, the total quota assigned to it shall, at its request, not be submitted to the application of the coefficients referred to in Article 19(2) of this Regulation. That request shall be

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submitted before the end of the marketing year to which the withdrawal applies.

▼B*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

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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.

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 ⁽²⁾.

⁽¹⁾ OJ L 169, 30.6.2005, p. 1.

⁽²⁾ 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).



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.

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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****▼M5**

1. A traditional supply need of sugar for refining is fixed for the Community at 2 324 735 tonnes per marketing year, expressed in white sugar.

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

- 198 748 tonnes for Bulgaria,
- 296 627 tonnes for France,
- 291 633 tonnes for Portugal,
- 329 636 tonnes for Romania,
- 19 585 tonnes for Slovenia,
- 59 925 tonnes for Finland,
- 1 128 581 tonnes for the United Kingdom.

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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.

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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, ►**M4** or Annex VIII ◀ 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

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processing or in the form of processed products listed in Annex VII or ►**M4** Annex VIII ◀.

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 ►**M4** or Annex VIII ◀ 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

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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.

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 ⁽²⁾. 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.

⁽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⁾ See page 32 of this Official Journal.

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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;

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- (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);

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- (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:

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- (i) amendments to the definition provided for in Article 2(12);

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- (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.

*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.

▼B*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.

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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

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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.

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ANNEX III

NATIONAL AND REGIONAL QUOTAS

from the 2007/2008 marketing year onwards

(tonnes)

Member States or regions (1)	Sugar (2)	Isoglucose (3)	Inulin syrup (4)
Belgium	862 077,0	99 796,0	0
Bulgaria	4 752,0	78 153,0	—
Czech Republic	367 937,8	—	—
Denmark	420 746,0	—	—
Germany	3 655 455,5	49 330,2	—
Ireland	0	—	—
Greece	158 702,0	17 973,0	—
Spain	887 163,7	110 111,0	—
France (metropolitan)	3 640 441,9	—	0
French overseas departments	480 244,5	—	—
Italy	753 845,5	28 300	—
Latvia	0	—	—
Lithuania	103 010,0	—	—
Hungary	298 591,0	191 845,0	—
Netherlands	876 560,0	12 683,6	0
Austria	405 812,4	—	—
Poland	1 772 477,0	37 331,0	—
Portugal (mainland)	15 000,0	13 823,0	—
Autonomous Region of the Azores	9 953,0	—	—
Romania	109 164	13 913,0	—
Slovenia	0	—	—
Slovakia	140 031,0	59 308,3	—
Finland	90 000,0	16 548,0	—
Sweden	325 700,0	—	—
United Kingdom	1 221 474,0	37 967,0	—
Total	16 599 138,3	767 082,1	0

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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

▼B*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.

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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

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Where Article 10(2) 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.

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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.

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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

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CN Code	Description
1902 30	– Other pasta
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>)

▼B

CN Code	Description
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:
	– – 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

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CN Code	Description
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

▼ M5

ANNEX VIII

CALCULATION OF THE PERCENTAGE TO BE ESTABLISHED IN ACCORDANCE WITH THE SECOND SUBPARAGRAPH OF ARTICLE 10(2)

1. For the purpose of the calculation set out in point 2, the following definitions shall apply:
 - (a) 'percentage at Member State level' means the percentage to be established in accordance with point 2 for the purpose of determining the total quantity to be reduced at the level of the Member State concerned;
 - (b) 'common percentage' means the common percentage established by the Commission in accordance with the first subparagraph of Article 10(2);
 - (c) 'reduction' means the figure obtained by dividing the total renunciation of quotas in the Member State by the national quotas as fixed in Annex III to this Regulation in the version applicable on 1 July 2006. For those Member States which were not members of the Community on 1 July 2006, the reference to Annex III concerns the version applicable on the date of their accession to the Community.
2. The percentage at Member State level is equal to the common percentage multiplied by $1 - [(1/0,6) \times \text{the reduction}]$.

When the result is below zero, the applicable percentage is equal to zero.

▼ M5

ANNEX IX

CALCULATION OF THE PERCENTAGE APPLICABLE TO UNDERTAKINGS IN ACCORDANCE WITH THE THIRD SUBPARAGRAPH OF ARTICLE 10(2)

1. For the purpose of the calculation set out in point 2, the following definitions shall apply:

- (a) 'applicable percentage' means the percentage to be established in accordance with point 2 and applicable to the quota allocated to the undertaking concerned;
- (b) 'common percentage at Member State level' means the percentage calculated for the Member State concerned as:

$$\text{Qty} / \Sigma [(1 - R/K) \times Q]$$

with

Qty = the quantity to be reduced at the level of the Member State referred to in Annex VIII point 1(a),

R = renunciation referred under (c) for a given undertaking,

Q = the quota of the same given undertaking available at the end of February 2010,

K = the figure calculated under (d),

Σ refers to the sum of the product of $(1 - R/K) \times Q$ calculated for each undertaking holding a quota in the territory of the Member State; when the product is below zero, it shall be equal to zero;

- (c) 'renunciation' means the figure obtained by dividing the quantity of quotas renounced by the undertaking concerned by its quota as allocated in accordance with Article 7 and paragraphs 1 to 3 of Article 11;
 - (d) 'K' is calculated in each Member State by dividing the total reduction of quota in that Member State (voluntary renunciations plus the quantity to be reduced at the level of Member State referred to in Annex VIII point 1(a)) by its initial quota as fixed in Annex III to this Regulation in the version applicable on 1 July 2006. For those Member States which were not members of the Community on 1 July 2006, the reference to Annex III concerns the version applicable on the date of their accession to the Community.
2. The applicable percentage is equal to the common percentage at Member State level multiplied by $1 - [(1/K) \times \text{the renunciation}]$.
- When the result is below zero, the applicable percentage is equal to zero.

▼ M5

ANNEX X

CALCULATION OF THE COEFFICIENT TO BE ESTABLISHED IN ACCORDANCE WITH ARTICLE 19a (1)

1. For the purpose of the calculations set out in points 2 and 3, the following definitions shall apply:
 - (a) 'coefficient at Member State level' means the coefficient to be established in accordance with point 2;
 - (b) 'reduction' means the figure obtained by dividing the total renunciation of sugar quotas in the Member State, including renunciations in the marketing year to which the withdrawal applies, by the national sugar quotas as fixed in Annex III to this Regulation in the version applicable on 1 July 2006; for those Member States which were not members of the Community on 1 July 2006, the calculation should take account of the version of Annex III applicable on the date of their accession to the Community;
 - (c) 'coefficient' means the coefficient established by the Commission in accordance with Article 19(2).
2. For the 2007/2008 marketing year, the coefficient at Member State level shall be equal to the coefficient increased by $[(1/0,5) \times \text{the reduction}] \times (1 - \text{the coefficient})$.

When the result is above 1, the applicable coefficient is equal to 1.
3. For the 2008/2009 and 2009/2010 marketing years, the coefficient at Member State level shall be equal to the coefficient increased by $[(1/0,6) \times \text{the reduction}] \times (1 - \text{the coefficient})$.

When the result is above 1, the applicable coefficient is equal to 1.