COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

on the common organisation of the markets in the sugar sector

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers

Proposal for a

COUNCIL REGULATION

establishing a temporary scheme for the restructuring of the sugar industry in the European Community and amending Regulation (EC) No 1258/1999 on the financing of the common agricultural policy

(presented by the Commission)

{SEC(2005) 808}

EXPLANATORY MEMORANDUM

1. INTRODUCTION

In September 2003 the Commission published a Communication[1], with an accompanying Impact Assessment on the Sugar Sector[2], on the options for reform of the EU sugar regime, which were followed in July 2004 by a Communication outlining the Commission's proposal for the future of the EU sugar regime[3].

From the resulting debate, the Commission has sought to take into account the views expressed by the Council, the European Parliament[4], the European Economic and Social Committee[5] and other Consultative Committees, as well as civil society, and to incorporate new elements into the present legislative proposal.

Furthermore, the recent findings of the World Trade Organisation (WTO) panel challenging the EU sugar export regime, as upheld by the WTO Appellate Body[6], make necessary a number of changes to the EU sugar export regime, in order to comply with the EU's international commitments.

Towards a sustainable long-term policy perspective for the EU sugar sector

There is a clear political consensus that the EU sugar sector must:

- move away from the attrition scenario under the current regime, which would drastically curtail sugar production under quota in both the EU's most and least competitive sugar producing regions;
- be brought in line with the CAP reform process, in particular the new orientation given with the introduction of decoupling, the single payment scheme and the application of cross-compliance rules;
- develop, without delaying the necessary economic adjustments, within a sustainable market environment, based upon improved competitiveness and greater market orientation;
- attain a sustainable market balance, in relation to domestic production levels and international commitments;
- be provided with a long-term policy framework, not requiring any review in 2008.

In this context, the Commission proposes that:

- the EU institutional price, net of the restructuring amount, will be cut by 39%, over two years, to ensure a sustainable EU market balance, consistent with the EU's international commitments;

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1 COM(2003) 554.
2 SEC(2003) 1022.
3 COM(2004) 499
4 Final Resolution P6 – TA(2005)0079 adopted at the plenary session of 10 March 2005.
5 Opinion 1646/2004 – NAT 258, adopted on 15 December 2004.
6 Appellate Body Report AB-2005-2, EC-Export Subsidies on Sugar, 28 April 2005.

– the national envelopes for the farmer direct payments in each Member State will grant 60% of the estimated revenue loss from this 39% institutional price cut;
– the sugar quota regime will be extended until the end of the 2014/15 marketing year.

Environmentally and socially acceptable competitiveness for the EU sugar sector

With regard to the necessary economic adjustments in the sector, there has been widespread reticence over the idea of transferability of quotas between Member States. Such a position makes compulsory quota cuts, to maintain internal market balance as from 2006/07, an unviable proposition, in particular in the light of the outcome of the WTO sugar panel.

The question of the necessary tools for the restructuring of the sector has therefore been reframed. The Commission is now proposing an ambitious, voluntary and temporary restructuring scheme for the EU sugar sector, to be implemented over a four-year period. The scheme will provide:

– a high, degressive per-tonne restructuring aid, available to EU sugar factories, isoglucose and inulin syrup producers, which will be granted for factory closure and renunciation of the quota;
– a top-up payment, to ensure sugar beet growers the possibility of receiving the full, final direct payment, as from the first marketing year, in the event that they abandon production, owing to the fact that the factory, with which they have sugar beet delivery rights, has closed under the restructuring scheme.

Financing for the restructuring scheme will come from a specific amount, charged on all sweetener quota. Full-time sugar refiners and sugar undertakings in outermost regions will not be part of the scheme.

The Commission also considers that developments taking place in the framework of the Biofuels Policy represent an interesting opportunity for the sugar sector. To encourage these developments, before the end of 2006, the Commission will amend the relevant regulations to allow sugar beet to qualify for set-aside payments, when cultivated as a non-food crop, and also be made eligible for the energy crop aid of € 45/ha provided under the 2003 CAP reform.

Keeping the EU sugar regime in line with international commitments

Without prejudice to the EU's stated intention to phase-out agricultural export subsidies in the framework of the Doha Development Agenda (DDA), the report of the WTO requires certain changes in order to ensure that EC export subsidy commitments are respected.

In order to maintain a certain production level in current "C" sugar producing Member States, the Commission proposes that:

– an additional amount of 1 million tonnes of quota shall be made available to those Member States;
– at the time of allocation of that quota to sugar producers, a one-off, per-tonne amount will be charged, equal to the level of the year 1 restructuring aid.

The Commission considers that the duty-free imports, foreseen for Least Developed Countries (LDC) under the "Everything But Arms (EBA) initiative as from 2009/10, should be maintained and that EBA countries should also be provided with a stable, long-term perspective for the development of their economy. These countries should benefit from the same guaranteed prices as those provided in the ACP sugar protocol.

Moreover it has to be made sure that EBA imports are not misused by shipping to the EU sugar of non-LDC origin. The best way to achieve this is to negotiate at international level a specific safeguard clause.

However, with the non-participation of EU sugar refiners in the restructuring scheme, the minimum guaranteed import price for ACP Protocol sugar will move in line with the EU institutional price and preferential sugar suppliers will therefore benefit from a delay in the cut of their preferential raw sugar price compared to EU producer prices.

A dialogue is currently taking place with ACP countries, regarding the Commission's Working Paper[7] for an "Action Plan on accompanying measures for Sugar Protocol countries affected by the reform of the EU sugar regime." These measures aim to help Sugar Protocol countries to adjust to the changing market conditions by enhancing competitiveness of their sugar sectors, by diversifying into other economic activities or by addressing broader social, economic and/or environmental impacts of these changes.

In addition to the ongoing dialogue with Croatia and the Former Yugoslav Republic of Macedonia, a Tariff Rate Quota (TRQ) for Albania, Bosnia-Herzegovina, and Serbia-Montenegro has been introduced[8], as from 1 July 2005.

The consequences of the Accession of Bulgaria and Romania have also been taken into account in the proposed changes to the EU sugar regime.

These three key elements of the EU sugar regime will be addressed through three legal instruments: proposed measures for the reform of the sugar common market organisation (CMO), measures for the restructuring of the EU sugar sector and measures for direct income support for sugar beet producers.

2. PROPOSED MEASURES FOR REFORM OF THE SUGAR CMO

2.1. Duration of the sugar regime

The EU sugar regime will be prolonged until the end of the 2014/15 marketing year and there will be no review in 2008.

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7 SEC(2005) 61, 17.1.2005.

8 Council Regulation (EC) No 374/2005 (OJ L 59, 5.3.2005, p. 1).

2.2. Prices

Intervention and start date of the sugar campaign

In order to further the move away from public intervention mechanism for EU market sectors, it is proposed to abolish the intervention mechanism and intervention price for sugar.

In order to ease the implementation of the price cuts, it is proposed to change the start date of the sugar campaign from 1 July to 1 October, starting in the 2007/08 campaign.

Reference Price

The intervention price will be replaced by a reference price for sugar. To boost EU competitiveness and lessen the gap with the prevailing world sugar price, the reference price will be set at a level 39% lower than the current intervention price. The price decrease will be achieved within two years, beginning in the 2006/07 campaign.

The reference price will serve in the establishment of the trigger level for private storage.

Minimum Sugar Beet Price

The minimum price for sugar beet has been calculated, in line with the proposed reference price cuts, net of the restructuring amount. However, in order to take account of the move away from a rigid price support system, through the abolition of the intervention mechanism, a flexibility clause has been introduced, which would grant sugar beet growers the possibility to negotiate the sugar beet price down to 10% below that guaranteed minimum price. The schedule for the price reductions is given in Annex.

Price Reporting

A price reporting mechanism for sugar shall be put in place in time for operational use, as from the 2006/07 campaign.

2.3. Quotas

Setting up a Single EU Quota

The current quota arrangements proposal will be simplified, by merging the "A" and "B" quotas into one single quota. An additional amount of 1 million tonnes of quota shall be made available to current "C" sugar producing Member States. At the time of allocation of that quota to sugar producers, a one-off, per-tonne amount will be charged, equal to the level of the year 1 restructuring aid.

A surplus amount mechanism will be established, to bring an overall consistency to the single quota system, distinguishing clearly the different sources of sugar and ensuring the legal security of the system.

Quota Reductions

There will be no compulsory quota reductions during the restructuring period. Market balance will be ensured by the amounts of sugar quota entering the

restructuring scheme and the market balance tools proposed below. At the end of the restructuring period, quota cuts will be applied, if needed, on the basis of a flat-rate, percentage cut in the total quota of each Member State.

Isoglucose

Owing to the relationship between the isoglucose and sugar markets, the proposed price reductions will also impact on the EU isoglucose sector revenue. Therefore, the isoglucose sector will need to be in a position to profit from economies of scale, in order to have a long-term prospect of economic viability. Under these circumstances, a progressive and proportional increase of isoglucose quotas, of 100 000 t/year for three years beginning in 2006/07, is proposed.

2.4. Market Balance Tools

Carry forward mechanism

As in the current regime, sugar factories will be allowed to carry forward any overshoot of quota in a given marketing year to the quota of the following marketing year.

Withdrawal Mechanism

Moreover, the Commission will retain the possibility of dealing with market imbalance, in a given marketing year, by withdrawing a percentage of quota sugar from the market until the beginning of the following marketing year. However, when setting the quota for that following marketing year, the Commission will take into account not only the quantities withdrawn but also the quantities renounced through the restructuring scheme.

Private Storage

A private storage scheme is proposed, in order to open the possibility of temporarily withdrawing sugar from the market. It will be implemented, as appropriate, by the Commission, should the market price fall below the reference price. Quantities withdrawn will not be eligible for private storage support.

2.5. Specific measures for the chemical and pharmaceutical industries

It is proposed that the current arrangements for excluding the sugar used for alcohol, including rum, bio-ethanol and yeast production from the production quotas will continue and will be extended to those quantities of sugar used by chemical and pharmaceutical industries, for end products with a high utilisation of sugar.

In view of the possibility that the chemical and pharmaceutical industries may fail to obtain, during an extended period, supplies of sugar at a price in line with world market prices, it is proposed that the production refund mechanism will be retained, in order to ensure adequate sugar supplies to these industries. However, if further difficulties make it necessary, the possibility of opening of a specific TRQ for the chemical and pharmaceutical industries will be envisaged.

2.6. International Commitments

Under the Traditional Supply Need mechanism, import certificates for preferential sugar for refining will be reserved for full-time refiners. A complementary import TRQ would be opened, if necessary, to ensure the supply of these refiners. From 2009/10, once the EBA initiative is fully implemented, the management of preferential imports will be partially opened to other operators, including non full-time refiners.

The Commission will continue to have the possibility to ensure, if needed, that Sugar Protocol commitments on quantities to be imported at the minimum guaranteed import price up to 2007, or new ones deriving from future Economic Partnership Agreements (EPA), are fulfilled.

3. PROPOSED MEASURES FOR THE RESTRUCTURING OF THE EU SUGAR SECTOR

3.1. Restructuring Scheme

The Commission proposes a new, voluntary and temporary restructuring scheme for the EU sugar sector, which will operate for four years (2006/07 to 2009/10).

The restructuring fund has three main objectives: firstly to provide incentives to encourage less competitive producers to leave the industry, secondly to provide money to cope with the social and environmental impacts of factory closure (financing of social plans or redeployment programs and reconversion measures to bring the site into good environmental condition) and thirdly to provide funds for the most affected regions. The conditions for having access to the restructuring fund are to be fixed on Community level in accordance with the economic, social and environmental objectives of the fund. The fulfilment of these conditions has to be controlled by the Member States; restructuring aid can only be granted once the closing factory is clearly committed to the respect of these conditions.

Financing for the restructuring scheme will come from a specific, per-tonne amount, charged over three years on all sweetener quota. The restructuring amount will be set at € 126.40/t in 2006/07, € 91.00/t in 2007/08 and € 64.50/t in 2008/09.

The scheme will provide a high, degressive per-tonne aid, available only to EU sugar factories, isoglucose and inulin syrup producers, wishing to cease production. In year 1, the aid will be set at € 730/t of quota, falling gradually to € 420/t of quota in year 4. In order to encourage an early uptake of the scheme, sugar factories closing as from 1 July 2005 will be eligible for the restructuring aid.

Furthermore, as from 2008/09, a part of the restructuring aid may be earmarked for diversification measures in regions most affected by the sugar reform. Note should also be taken of the additional possibilities provided for by the instruments of European Cohesion policy, to assist the economic restructuring and the retraining of workers in zones that are particularly hard hit by the consequences of the reform.

3.2. Top-up Payment for Sugar Beet Growers

Through the restructuring scheme budget, sugar beet growers will receive a top-up payment, to ensure the possibility of receiving the full, final direct payment to those

growers, who have to abandon production owing to the closure of the factory with which they have sugar beet delivery rights, from year 1 of the price cuts.

4. PROPOSED MEASURES FOR DIRECT INCOME SUPPORT FOR SUGAR BEET PRODUCERS

The Commission proposes to grant direct payments to farmers on the global base of those who produced sugar beet under quota in the historical reference period, 2000–2002. However, Member States may, for reasons of fairness, exercise flexibility in calculating the direct payment of individual farmers over a different period.

The national envelopes for each Member States for the direct payments will represent 60% of the estimated revenue loss from the two-step, 39% institutional price cuts. The revenue loss was estimated taking into account the change in the weighted minimum sugar beet price in each Member State, multiplied by the quota level (see Annex 2). Member States will also receive an additional envelope destined to compensate growers in their territory supplying chicory for the production of inulin syrup.

The direct payment for Outermost Regions will be brought into the single framework for the POSEI, currently under discussion, and will thus be excluded from the single payment scheme. Moreover, the French outermost regions that were the only ones to benefit from disposal aid will receive an additional amount corresponding to current disposal measures under the reference period.

5. BUDGETARY IMPACT OF THE PROPOSALS FOR THE SUGAR REFORM

For the period, the cost of the proposed reform respects the status quo expenditure, as proposed at the time of the CAP Reform proposals of January 2003. The costs of the new measures proposed for this sector, for which the direct decoupled payment to producers represents the major element, will be mainly offset by the savings resulting from a substantial reduction in export refund expenditure and abolition of the refining aid.

When the proposed measures for the sector have been fully implemented, the envelopes for direct income support will involve an annual cost of EUR 1 542 million. Any costs in respect of the private storage scheme should be limited and only arise if market prices risk falling significantly below the reference price.

With regard to the restructuring scheme, an *ad hoc* restructuring amount will be charged to finance it and will be assigned to a restructuring fund. The amount of EUR 4 225 million will be charged over three marketing years (2006/07 up to 2008/09) and the restructuring aid will be available for four marketing years (2006/07 to 2009/10).

Annex 1 – Proposed Institutional Prices in the EU Sugar Sector

	Reference period	2006/07	2007/08	2008/09	2009/10
Institutional/Reference Sugar Price, (EUR/t)	631.9	631.9	476.5	449.9	385.5
Institutional/Reference Sugar Price, net of Restructuring Amount (EUR/t)	631.9	505.5	385.5	385.5	385,5
Restructuring Amount (EUR/t)	–	126.4	91.0	64.5	–
Minimum Sugar Beet Price (EUR/t)*	43.63	32.86	25.05	25.05	25.05

* *For the reference period the minimum sugar beet price is the weighted average for EU-15.*

Annex 2 – Envelopes for Direct Income Support for Farmers (*EUR million*)

Payment steps	B	DK	D	EL	E	F continental	IRL	I
in 2006/07	49	19	155	18	60	151	11	80
from 2007/08	84	34	278	29	96	270	18	136

	NL	A	P continental	FIN	S	UK	F* overseas	P* Azores
in 2006/07	42	19	4	8	21	64	27	
from 2007/08	74	33	6	14	34	105	44	1

	CZ	HU	LV	LT	PL	SK	SI	EU-25
in 2006/07	28	25	4	7	99	12	3	**907**
from 2007/08	44	40	7	10	159	19	5	**1 542**

2005/0118 (CNS)

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on the common organisation of the markets in the sugar sector

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion from the European Parliament,

Having regard to the opinion from the European Economic and Social Committee,

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[9] 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.

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[9] 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).

(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 a representative price for white sugar should be fixed.

(6) A minimum price should be fixed for quota beet corresponding to a standard quality which should be defined, in order to ensure a fair standard of living for the Community growers of sugar beet and sugar cane.

(7) Specific instruments are needed to ensure a fair balance of rights and obligations between sugar undertakings and sugar beet growers. Therefore, standard provisions should be laid down to govern the contractual relations between buyers and sellers of sugar beet. The diversity of natural, economic and technical situations makes it difficult to provide for uniform purchase terms for sugar beet throughout the Community. Agreements within the trade already exist between associations of sugar beet growers and sugar undertakings. Therefore, framework provisions should only define the minimum guarantees required by both sugar beet growers and the sugar industry to ensure a smooth functioning of the sugar market with the possibility to derogate from some rules in the context of an agreement within the trade.

(8) The reasons which in the past led the Community to adopt a production quota system for sugar, isoglucose and inuline 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 that produced C sugar in the marketing year 2004/2005 to be allocated an additional quota under conditions that take the lower value of C sugar into account.

(10) To counterbalance the effects on isoglucose of the fall in sugar prices, as well as to avoid to penalise the production of some isoglucose qualities, additional quotas should be allocated to the current isoglucose beneficiaries.

(11) To ensure that the Community's production of sugar, isoglucose and inuline 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.

(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 producing undertakings are not detrimental to the interests of the beet growers or cane growers concerned.

(14) Since allocating quota production to undertakings is a way of ensuring that sugar beet and cane growers are paid Community prices and have an outlet for their production, the interests of all parties concerned, in particular beet and cane growers, should be taken into consideration when quotas are transferred inside production regions.

(15) To expand the outlets for sugar, isoglucose and inuline syrup on the Community's internal market, it should be possible to consider sugar, isoglucose and inuline 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.

(17) In the event that the production of sugar, isoglucose or inuline syrup exceeds the quotas, it should be possible to provide for a mechanism to carry forward the surplus sugar, isoglucose or inuline 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 inuline 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) 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.

(22) 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.

(23) In order to monitor the volume in trade in sugar with third countries, provision should be made for an import and export licence scheme with the lodging of a security to ensure that the transactions for which such licences are issued are actually carried out.

(24) 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.

(25) 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 obligations of the Community.

(26) 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.

(27) 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.

(28) 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.

(29) 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 full-time refiners in the Community.

(30) 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 .

(31) 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.

(32) Compliance with the quantity limits should be ensured by a reliable and effective system of monitoring. To that end, the granting of export refunds should be made subject to an export licence. Export refunds should be granted up to the limits available, depending on the particular situation of each product concerned. Exceptions to that rule should be permitted only for processed products not listed in Annex I to the Treaty, to which volume limits do not apply. Provision should be made for derogating from strict compliance with management rules where exports benefiting from export refunds are not likely to exceed the quantity laid down.

(33) 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.

(34) 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.

(35) Since the common market in sugar is continuously evolving, the Member States and the Commission should keep each informed of relevant developments.

(36) 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[10].

(37) The Commission should be authorised to adopt necessary measures to solve specific practical problems in case of emergency.

(38) 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 ..../2005 of […] laying down specific measures for agriculture in the outermost regions of the Union[11].

(39) 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[12].

(40) The change-over from the arrangements in Regulation (EC) No 1260/2001 to those provided for in this Regulation could give rise to difficulties which are not dealt with

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10 OJ L 184, 17.7.1999, p. 23.
11 OJ L …, …, p. …
12 OJ L 160, 26.6.1999, p. 103.

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 92 00	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	Other sugars in solid form and sugar syrups, not containing added flavouring or colouring matter, but not including lactose, glucose
	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
	1702 90 99	Maltodextrine and isoglucose
	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	
(e)	1702 60 80	Inuline syrup
	1702 90 80	
(f)	1703	Molasses resulting from the extraction or refining of sugar
(g)	2106 90 30	Flavoured or coloured isoglucose syrups
(h)	2303 20	Beet pulp, bagasse and other waste of sugar undertakings

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) "inuline syrup" means the immediate product obtained by hydrolysis of inuline or oligofructoses, containing in the dry state at least 10% fructose in free form or as sucrose, and expressed as sugar/isoglucose equivalents;

(5) "quota sugar", "quota isoglucose" and "quota inuline syrup" mean any quantity of sugar, isoglucose or inuline syrup production attributed to a specific marketing year under the quota of the undertaking concerned;

(6) "industrial sugar", "industrial isoglucose" and "industrial inuline syrup" mean any quantity of sugar, isoglucose or inuline syrup production attributed to a specific marketing year over and above the respective quantities referred to in point (5), intended for the production by the industry of one of the products referred to in Article 13(2);

(7) "surplus sugar", "surplus isoglucose" and "surplus inuline syrup" mean any quantity of sugar, isoglucose or inuline syrup production attributed to a specific marketing year over and above the respective quantities referred to in points (5) and (6);

(8) "quota beet" means all sugar beet processed into quota sugar;

(9) "delivery contract" means a contract concluded between a seller and an undertaking for the delivery of beet for the manufacture of sugar;

(10) "agreement within the trade" means one of the following:

(a) an agreement concluded at Community level, prior to the conclusion of any delivery contract, between a group of national undertakings' organisations on the one hand and a group of national sellers' organisations on the other,

(b) an agreement concluded, prior to the conclusion of any delivery contract, between undertakings or a undertakings' organisation recognised by the Member State concerned on the one hand and a sellers' association recognised by the Member State concerned on the other,

(c) in the absence of any agreement as referred to in point (a) or (b), the law on companies and the law on cooperatives, in so far as they govern the delivery of sugar beet by the shareholders or members of a company or cooperative manufacturing sugar,

(d) in the absence of any agreement as referred to in point (a) or (b), the arrangements existing before the conclusion of any delivery contract, provided the sellers accepting the arrangement supply at least 60% of the total beet bought by the undertaking for the manufacture of sugar in one or more factories;

(11) "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 sugar cane between the European Community and the Republic of India;

(12) "full-time refiner" means a production unit whose sole activity consists in refining either raw sugar or syrups produced prior to the crystallising stage, including the production units that refined cane sugar in the year 2004.

TITLE II
INTERNAL MARKET

CHAPTER 1
PRICES

Article 3
Reference prices

1. For white sugar, the reference price shall be:

(a) EUR 631.9 per tonne for the marketing year 2006/2007;

(b) EUR 476.5 per tonne for the marketing year 2007/2008;

(c) EUR 449.9 per tonne for the marketing year 2008/2009;

(d) EUR 385.5 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 the marketing year 2006/2007;

(b) EUR 394.9 per tonne for the marketing year 2007/2008;

(c) EUR 372.9 per tonne for the marketing year 2008/2009;

(d) EUR 319.5 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, loaded on to a means of transport chosen by the purchaser. 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 representative prices 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.

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 25.05 per tonne as from the marketing year 2007/2008.

   However, the minimum price for quota beet may be reduced by a maximum of 10% by way of an agreement within the trade.

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

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

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

Article 6
Interprofessional agreements

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

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

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

   – quota sugar,

   – out-of-quota sugar.

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

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

   (b) the corresponding estimated yield.

   Member States may require additional information.

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

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

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

CHAPTER 2
QUOTA PRODUCTION

Article 7
Quota allocation

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

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

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

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

Article 8
Additional sugar quota

1. By 31 July 2006 at the latest, sugar undertakings that produced C sugar under Regulation (EC) No 1260/2001 during the marketing year 2004/2005 may request from the Member State where they are established the allocation of an additional quota for a total as set out in Annex IV. The additional quotas shall be allocated according to objective and non discriminatory criteria.

2. If the demand for additional quotas exceeds the available national quantity, the Member State concerned shall provide for a proportional reduction of the quantities to be allocated.

3. A one-off amount shall be levied on the additional quotas that have been allocated to undertakings in accordance with paragraphs 1 and 2. This amount shall be set at an amount equal to the level of the restructuring aid applicable in the marketing year 2006/2007. 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 2007.

5. If the sugar undertaking has not paid the one-off amount before 28 February 2007 the additional quotas shall not be considered as allocated to the sugar undertaking concerned.

Article 9
Additional isoglucose quota

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

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

Article 10
Quota management

1. In accordance with the procedure referred to in Article 39(2), the quotas set out in Annex III shall be adjusted by 30 September 2006 at the latest for the marketing year 2006/2007 and by the end of February at the latest of the previous marketing year for each of the marketing years 2007/2008, 2008/2009, 2009/2010 and 2010/2011. The adjustments shall include the results from the application of Article 8, of paragraph 2 of this Article, of Article 14 and Article 19 of this Regulation and of Article 3 of Council Regulation (EC) No …./2005 (restructuring Regulation).

2. Taking into account the results of the restructuring scheme provided for in Council Regulation (EC) No …./2005 (restructuring scheme), the Commission shall decide by the end of February 2010 at the latest, in accordance with the procedure referred to in Article 39(2), the common percentage needed to reduce the existing quotas for sugar, isoglucose and inuline syrup per Member State or region with a view to avoid market imbalances in the marketing years as from 2010/2011.

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

Article 11
National quota reallocation

1. 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.

   However, a Member State shall not reduce the quota of an undertaking producing sugar or isoglucose-, established in its territory, by more than 10% of the quota as allocated.

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

CHAPTER 3
OUT-OF-QUOTA PRODUCTION

Article 12
Scope

The sugar, isoglucose or inuline syrup produced during a marketing year in excess of the quota referred to in Article 7 shall 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, or

(c) used for the specific supply regime for the outermost regions, in accordance with Title II of Regulation (EC) No …../2005.

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 inuline 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;

   (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 inuline syrup is used.

The list shall in particular include:

(a) alcohol, rum, live yeast and "Rinse appelstroop";

(b) industrial products without sugar content but the processing of which uses a quantity of sugar, isoglucose or inuline syrup higher than 50% of the weight of the final product;

(c) products of the chemical or pharmaceutical industry for which the content of sugar, isoglucose or inuline syrup is higher than 50% of the weight of the final product.

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

Only sugar, isoglucose or inuline syrup used for the production of the products referred to in paragraph 2 points (b) and (c) of this Article which are not exported to third countries shall be eligible for the production refund.

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

Article 14
Carry forward of surplus sugar

1. Each undertaking may decide to carry forward all or part of its production in excess of its sugar quota , its isoglucose quota or its inuline 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 by 31 January of the current marketing year at the latest, of the quantities of sugar, isoglucose or inuline syrup being carried forward;

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

However, the date of 31 January referred to in point (a) of the first subparagraph shall be replaced:

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

(b) for undertakings established in the United Kingdom, by 15 February;

(c) for undertakings established in the French overseas departments of Guadeloupe and Martinique, by 30 April.

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 inuline 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);

(b) industrial sugar, industrial isoglucose and industrial inuline syrup for which no proof has been supplied, by a date to be determined, that it has been processed in one of the products referred to in Article 13(2);

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

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

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

CHAPTER 4
MARKET MANAGEMENT

Article 16
Production charge

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

2. The production charge shall be set at EUR 12.00 per tonne of the quota sugar and quota inuline 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 inuline syrup undertakings may require sugar-beet or sugar-cane growers or chicory suppliers to bear 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 inuline syrup or to an operator that processes these products into a product included in the list referred to in Article 13(2) provided that the operator:

(a) proves his professional production capacities;

(b) agrees to provide any information and to be subject to controls provided for in 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

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.

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 obligations of the Community resulting from agreements concluded in accordance with Article 300 of the Treaty, a percentage, common to all Member States, of quota sugar, quota isoglucose and quota inuline syrup may be withdrawn from the market until the beginning of the following marketing year.

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

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

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

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

   – surplus sugar, surplus isoglucose or surplus inuline syrup available to become industrial sugar, industrial isoglucose or industrial inuline syrup, or

   – supplementary quota production;

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

Article 20

Storage under different measures

Sugar stored under one of the measures referred to in Article 14, Article 18 or Article 19 during a marketing year may not be subject to 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) 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 9(5) of Regulation (EC) No 2501/2001 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 day 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.

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. If the production refund provided for in Article 13(3) does not 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 white sugar falling within CN code 1701 and isoglucose falling within codes 1702 30 10, 1702 40 10, 1702 60 10 and 1702 90 30.

Article 27
Management of import

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

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

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

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

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

Article 28
Tariff quotas

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

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

   (a) a method based on the chronological order of the lodging of applications ("first come, first served" principle);

(b) a method of distribution in proportion to the quantities requested when the applications were lodged (using the "simultaneous examination method");

(c) a method based on taking traditional trade patterns into account (using the "traditional/new arrival method").

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

Article 29
Traditional supply need for refining

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

2. Import licences for sugar for refining shall be issued only to full-time refiners provided that the concerned quantities are below the traditional supply need referred to in paragraph 1. The licences in question shall be issued for 75% of the ACP/Indian sugar before being available for any other sugar. They may be transferred only between full-time refiners and their validity expires at the end of the marketing year for which they have been issued.

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

3. 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 and the forecast supply of raw sugar 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 Article 9 of Regulation (EC) No 2501/2001;

(b) the States referred to in Annex VI to this Regulation for the complementary quantity referred to in Article 29(3).

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 sugar cane between the European Community and the Republic of India. Those measures may, if necessary, derogate from Article 29 of this Regulation.

CHAPTER 3
PROVISIONS APPLICABLE TO EXPORTS

Article 32
Scope of export refunds

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

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

   In that case, the amount of the refund per 100 kg of dry matter shall be fixed taking particular account of:

   (a) the refund applicable to exports of products falling within CN code 1702 30 91,

   (b) the refund applicable to exports of the products listed in Article 1(1)(c),

   (c) the economic aspects of the planned exports.

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

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

Article 33

Export refund fixation

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

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

   (b) is least cumbersome administratively for operators, account being taken of administration requirements.

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

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

   Refunds may be fixed:

   (a) at regular intervals;

   (b) by invitation to tender for products in respect of which provision was made for that procedure in the past.

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

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

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

   (a) for the destination indicated on the licence,

   or,

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

4. The scope of paragraphs 1 and 2 of this Article 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[13]. 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 AND FINAL PROVISIONS

CHAPTER 1
GENERAL PROVISIONS

Article 36
State aid

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).

Article 37
Disturbance clause

When, in case of 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,

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

further necessary measures may be taken.

[13] OJ L 318, 20.12.1993, p. 18.

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) shall be set at one month.

3. The Committee shall adopt its rules of procedures.

Article 40
Implementing rules

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

   (a) detailed rules for applying 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 applying Articles 7 to 10;

   (c) detailed rules for applying Articles 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, 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 Article 38;

(g) detailed rules for applying 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. Furthermore, in accordance with the procedure referred to in Article 39(2) the following may be adopted:

(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) detailed rules for applying 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;

(iv) the percentage of withdrawn quota sugar referred to in Article 19(1);

(v) 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);

(d) rules for applying the derogation provided for in Article 23(1);

(e) detailed rules for applying Articles 29 and 30 and, in particular, to comply with international agreements:

(i) amendments to the definition provided for in Article 2(11);

(ii) amendments to Annex VI;

(f) detailed rules for applying Article 37.

[Article 41
Amendment to Regulation (EC) No ..../2005

In Article 24 of Regulation (EC) No ……/2005, paragraph 2 is replaced by the following:

"2. The Community shall finance the measures provided for in Titles II and III up to the following annual maxima:

(*million EUR*)	Financial year 2007	Financial year 2008 and further
French overseas departments:	126.6	143.9
Azores and Madeira:	77.9	78.2
Canary Islands:	127.3	127.3"][14]

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 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), transitional measures may be adopted to facilitate the transition from the rules provided for in Regulation (EC) No 1260/2001 to those established by this Regulation.

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[14] [Awaiting the adoption of the proposed Council Regulation (EC) No …./2005 on the financing of the common agricultural policy.]

Article 45
Repeal

Regulation (EC) No 1260/2001 is repealed.

Article 46
Entry into force

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

It shall apply from the marketing year 2006/2007. Title II shall apply until the end of marketing year 2014/2015.

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

Done at Brussels,

For the Council
The President

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 called the 'Brunswick method',

   – 6 for the colouring of the solution, determined using the method of the International Commission for Uniform Methods of Sugar Analysis, hereinafter called the 'ICUMSA method'.

2. One point shall correspond to:

   (a) 0.0018% of ash content determined using the ICUMSA method at 28° Brix,

   (b) 0.5 units of colour type determined using the Brunswick method,

   (c) 7.5 units of colouring of the solution determined using the ICUMSA method.

3. The methods for determining the factors referred to in paragraph 1 shall be those used for determining those factors under the intervention measures.

Point III

Standard quality for raw sugar

1. Raw sugar of the standard quality shall be sugar with a yield in white sugar of 92%.

2. The yield of raw beet sugar shall be calculated by subtracting from the degree of polarisation of that sugar:

   (a) its percentage ash content multiplied by four,

   (b) its percentage invert sugar content multiplied by two,

   (c) the number 1.

3. The yield of raw cane sugar shall be calculated by subtracting 100 from the degree of polarisation of that sugar multiplied by two.

ANNEX II

PURCHASE TERMS FOR BEET

Point I

For the purposes of this Annex:, “Contracting Parties” means:

(a) sugar undertakings, hereinafter called «manufacturers»,

(b) beet sellers, hereinafter called «sellers»;

Point II

1. Delivery contracts shall be made in writing for a specified quantity of quota beet.

2. Delivery contracts shall specify whether an additional quantity of beet may be supplied, and under what terms.

Point III

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

2. Delivery contracts shall lay down a fixed sugar content for beet. They shall include a conversion scale showing the different sugar contents and factors for converting the quantities of beet supplied into quantities corresponding to the sugar content shown in the delivery contract.

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

3. Where a seller has signed a delivery contract with a manufacturer for the delivery of beet as referred to in the first indent of Article 6(3), all deliveries by that seller, converted in accordance with paragraph 2 of this Point, shall be considered to be deliveries within the meaning of the first indent of Article 6(3), up to the quantity of beet specified in the delivery contract.

4. Manufacturers producing a quantity of sugar lower than their quota beet for which they have signed pre-sowing delivery contracts under the first indent of Article 6(3), shall distribute the quantity of beet corresponding to any additional production up to the amount of their quota among the sellers with whom they have signed pre-sowing delivery contracts within the meaning of the first indent of Article 6(3).

   Agreements within the trade may derogate from this provision.

Point IV

1. Delivery contracts shall contain provisions concerning the staggering and normal duration of beet deliveries.

2. Provisions referred to in paragraph 1 shall be those applicable during the previous marketing year, taking account of the level of actual production; agreements within the trade may derogate therefrom.

Point V

1. Delivery contracts shall provide for beet collection places.

2. Where sellers and manufacturers have already signed a delivery contract for the previous marketing year, the collection places agreed upon by them for deliveries during that marketing year shall remain in operation. Agreements within the trade may derogate from this provision.

3. Delivery contracts shall provide that loading and transport costs from the collection places are to be borne by the manufacturer subject to special agreements based on local rules or usages in operation before the previous marketing year.

4. However, in Denmark, Greece, Spain, Ireland, Portugal, Finland and the United Kingdom, where beet is delivered free-at-factory, delivery contracts shall require manufacturers to contribute to loading and transport costs and shall stipulate the percentage or amounts.

Point VI

1. Delivery contracts shall provide for reception points for beet.

2. Where sellers and manufacturers have already signed a delivery contract for the previous marketing year, the reception points agreed upon by them for deliveries during that marketing year shall remain in operation. Agreements within the trade may derogate from this provision.

Point VII

1. Delivery contracts shall provide for the sugar content to be determined using the polarimetric method. A sample of the beet shall be drawn at the time of reception.

2. Agreements within the trade may provide for samples to be drawn at another stage.

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

Point VIII

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

(a) jointly, by the manufacturer and the beet growers' trade organisation, if an agreement within the trade so provides;

(b) by the manufacturer, under the supervision of the beet growers' trade organisation;

(c) by the manufacturer, under the supervision of an expert recognised by the Member State concerned, provided the seller defrays the costs thereof.

Point IX

1. Delivery contracts shall require manufacturers to do one or more of the following for the whole quantity of beet delivered:

   (a) to return the fresh pulp from the tonnage of beet delivered free of charge to the seller, ex factory;

   (b) to return part of that pulp, pressed 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 must not conflict with this Annex.

Point XII

1. Agreements within the trade as described in Point I(3)(b) shall contain arbitration clauses.

2. Where agreements within the trade at Community, regional or local level lay down rules covering matters which are dealt with in this Regulation, or where they contain provisions governing other matters, their provisions and effects must not conflict with this Annex.

3. Agreements referred to in paragraph 2 lay down, in particular:

(a) rules on the distribution to sellers of quantities of beet which the manufacturer decides to buy prior to sowing, for the manufacture of sugar within the limits of the quota;

(b) rules on distribution as referred to in Point III(4);

(c) the conversion scale referred to in Point III(2);

(d) rules on the choice and supply of seeds of the varieties of beet to be produced;

(e) the minimum sugar content of beet to be delivered;

(f) a requirement for consultation between the manufacturer and the sellers' representatives before the starting date of beet deliveries is fixed;

(g) the payment of premiums to sellers for early or late deliveries;

(h) details of:

(i) the part of the pulp referred to in Point IX(1)(b),

(ii) the costs referred to in Point IX(1)(c),

(iii) the compensation referred to in Point IX(1)(d);

(i) the removal of pulp by the seller;

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

Point XIII

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

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

ANNEX III

NATIONAL AND REGIONAL QUOTAS

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

ANNEX IV

ADDITIONAL QUOTAS FOR SUGAR

Member states	Additional quota
Belgium	62 489
Czech Republic	20 070
Denmark	31 720
Germany	238 560
France (metropolitan)	351 695
Lithuania	8 985
Netherlands	66 875
Austria	18 486
Poland	100 551
Sweden	17 722
United Kingdom	82 847
TOTAL	**1 000 000**

ANNEX V

DETAILED RULES ON TRANSFERS OF SUGAR OR ISOGLUCOSE QUOTAS

Point I

For the purposes of this Annex:

(a) 'merger of undertakings' means the consolidation of two or more undertakings into a single undertaking;

(b) 'transfer of an undertaking' means the transfer or absorption of the assets of an undertaking having quota to one or more undertakings;

(c) 'transfer of a factory' means the transfer of ownership of a technical unit, including all the plant required to manufacture the product concerned, to one or more undertakings, resulting in the partial or total absorption of the production of the undertaking making the transfer;

(d) 'lease of a factory' means the leasehold contract of a technical unit including all the plant required for the manufacture of sugar, with a view to its operation, concluded for a period of at least three consecutive marketing years, which the parties agree not to terminate before the end of the third marketing year, with an undertaking which is established in the same Member State, as the factory concerned, if, after the lease takes effect, the undertaking which rents the factory can be considered a solely sugar-producing undertaking for its entire production.

Point II

1. Without prejudice to paragraph 2, in the event of the merger or transfer of sugar-producing undertakings or the transfer of sugar factories, the quota shall be adjusted as follows:

   (a) in the event of the merger of sugar-producing undertakings, the Member States shall allocate to the undertaking resulting from the merger a quota equal to the sum of the quotas allocated prior to the merger to the sugar-producing undertakings concerned;

   (b) in the event of the transfer of a sugar-producing undertaking, the Member State shall allocate the quota of the transferred undertaking to the transferee undertaking for the production of sugar or, if there is more than one transferee undertaking, the allocation shall be made in proportion to the sugar production absorbed by each of them;

   (c) in the event of the transfer of a sugar factory, the Member State shall reduce the quota of the undertaking transferring ownership of the factory and shall increase the quota of the sugar-producing undertaking or undertakings purchasing the factory in question by the quantity deducted in proportion to the production absorbed.

2. Where a number of the sugar-beet or cane growers directly affected by one of the operations referred to in paragraph 1 expressly show their willingness to supply their beet or cane to a sugar-producing undertaking which is not party to those operations,

the Member State may make the allocation on the basis of the production absorbed by the undertaking to which they intend to supply their beet or cane.

3. In the event of closure, in circumstances other than those referred to in paragraph 1, of:

(a) a sugar-producing undertaking,

(b) one or more factories of a sugar-producing undertaking,

the Member State may allocate the part of the quotas involved in such closure to one or more sugar-producing undertakings.

Also in the case referred to in point (b) of the preceding subparagraph, where some of the producers concerned expressly show their willingness to supply their beet or cane to a given sugar-producing undertaking, the Member State may allocate the proportion of the quotas corresponding to the beet or cane concerned to the undertaking which they intend to supply with those products

4. Where the derogation referred to in Article 6(6) is invoked, the Member State concerned may require the beet growers and the sugar undertakings concerned by that derogation to include in their agreements within the trade special clauses enabling the Member State to apply paragraphs 2 and 3 of this Point.

5. In the event of the lease of a factory belonging to a sugar-producing undertaking, the Member State may reduce the quota of the undertaking offering the factory for rent and allocate the portion by which the quota was reduced to the undertaking which rents the factory in order to produce sugar in it.

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

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

7. Where a Member State grants a sugar producing undertaking price and outlet guarantees for processing sugar beet into ethyl alcohol, the Member State may, in agreement with that undertaking and the beet growers concerned, allocate all or part of the sugar production quotas to one or more 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 of 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 of transfer occurs between 1 May and 30 September of the same year, the measures referred to in Points II and III shall take effect for the following marketing year.

Point VI

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

Point VII

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

ANNEX VI

STATES REFERRED TO IN ARTICLE 2(11)

Barbados

Belize

Côte d'Ivoire

Congo

Fiji

Guyana

India

Jamaica

Kenya

Madagascar

Malawi

Mauritius

Mozambique

Saint Kitts and Nevis – Anguilla

Suriname

Swaziland

Tanzania

Trinidad and Tobago

Uganda

Zambia

Zimbabwe

ANNEX VII

PROCESSED PRODUCTS

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

CN Code	*Description*
1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, cornflakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour and meal), pre-cooked, or otherwise prepared, not elsewhere specified or included:
ex 1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products:
1905 10 00	- Crispbread
1905 20	- Gingerbread and the like
1905 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 *(Zea mays var. saccharata)*
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 *(Zea mays var. saccharata)*
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 *(Zea mays var. saccharata)*
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 with a basis of coffee:
	- - Preparation with a basis of these extracts, essences or concentrates or with a basis of coffee:
2101 12 98	- - - Other:

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

2005/0119 (CNS)

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Economic and Social Committee,

Whereas:

(1) Council Regulation (EC) No ……/2005 (sugar reform) on the common organisation of the markets in the sugar sector[15] provides for an important reform of the sugar common market organisation. The measures introduced by that Regulation include a significant reduction in the institutional support price for Community sugar in two steps.

(2) As a consequence of reduced market support in the sugar sector, income support measures for sugar beet growers should be introduced. That measure should take the form of a payment to sugar beet and chicory growers the overall level of which should develop in parallel with the gradual reduction of market supports.

(3) The de-coupling of direct producer support and the introduction of the single payment scheme are essential elements in the process of reforming the common agricultural policy aimed at moving away from a policy of price and production support to a policy of farmer income support. Council Regulation (EC) No 1782/2003[16] introduced those elements for a variety of agricultural products.

(4) In order to meet the objectives underlying the reform of the common agricultural policy, the support for sugar beet should be de-coupled and integrated into the single payment scheme.

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[15] OJ L …, …, p. …

[16] OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Commission Regulation (EC) No 118/2005 (OJ L 24, 27.1.2005, p. 15).

(5) Consequently, the rules on direct support schemes laid down in Regulation (EC) No 1782/2003 should be adapted.

(6) Sugar beet and chicory growers in the new Member States have benefited since accession from price support in the framework of Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector[17]. Therefore, the sugar payment and the sugar and chicory components in the single payment scheme should not be subject to the application of the schedule of increments provided for in Article 143a.

(7) The level of individual income support should be calculated on the basis of the average number of hectares under sugar beet or chicory used for the production of A and B sugar or inuline syrup covered by a delivery contract concluded, in accordance with Article 19 of Council Regulation (EC) No 1260/2001, with a sugar or inuline syrup undertaking for one or more marketing years to be determined by Member States.

(8) To ensure the proper application of the support scheme and for reasons of budget control, provision should be made for keeping the overall income support within the limit of national envelopes calculated on the basis of a historical reference year.

(9) Member States that have opted or will opt for applying the single payment scheme only as from 1 January 2007 should be enabled to grant income support to growers of sugar beet and chicory used for the production of inuline syrup in 2006 in the form of a payment based on the number of hectares of sugar beet or chicory delivered. As for the calculation of the sugar beet and chicory component in the single payment scheme, Member States should have the possibility to determine the marketing years to be taken into account on a representative basis.

(10) In order to solve, where the case may be, problems arising from the change-over from the current regime to the single payment scheme, it is appropriate to confer the power on the Commission to adopt the relevant transitional rules by way of amendment of the current Article 155 of Regulation (EC) No 1782/2003.

(11) In order to earmark the sugar payment provided for in Article 110p as direct payments Annex I to Regulation (EC) No 1782/2003 should be amended accordingly.

(12) In order to take account of the amount of income support provided for with regard to the sugar payment, the national ceilings provided for in Annexes II, VIII and VIIIa to Regulation (EC) No 1782/2003 should be adapted accordingly.

(13) Regulation (EC) No 1782/2003 should therefore be amended accordingly,

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[17] 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).

HAS ADOPTED THIS REGULATION:

Article 1

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

(1) In Article 37(1) the following subparagraph is added:

"For sugar beet and chicory used for the production of inuline syrup the reference amount shall be calculated and adjusted in accordance with Annex VII, point K."

(2) Point (a) of Article 43(2) is replaced by the following:

"(a) in case of potato starch, dried fodder, seed, olive groves, tobacco and sugar beet and chicory aids listed in Annex VII, the number of hectares whose production has been granted the aid or, in the case of sugar beet and chicory used for the production of inuline syrup, the amount of support in the reference period as calculated in points B, D, F, H, I and K of Annex VII;";

(3) In Section 1 of Chapter 5 of Title III, the following Article is added:

"Article 63a
Sugar beet and chicory payments

In relation to the inclusion of the sugar beet and chicory payments component in the single payment scheme, Members States may decide to apply the derogation provided for in Article 63(3) by 1 March 2006."

(4) Article 71c is replaced by the following:

" Article 71c
Ceiling

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

(5) In Title IV, the following Chapter is inserted:

« CHAPTER 10e
SUGAR PAYMENT

Article 110p
Sugar payment

1. In case of application of Article 71, for 2006, growers of sugar beet and chicory used for the production of inuline syrup shall qualify for a sugar payment. It shall be granted for the average number of hectares under sugar beet or chicory used for the production of A and B sugar or inuline syrup covered by the delivery contracts concluded by the grower in accordance with

Article 19 of Council Regulation (EC) No 1260/2001* for a representative period of one or more marketing years as from the marketing years 2000/2001, to be determined by the Member State concerned in accordance with objective and non-discriminatory criteria.

2. Without prejudice to Article 71(2), for the purpose of calculating the amount of the sugar payment the average number of hectares under sugar beet or chicory referred to in paragraph 1 of this Article, shall be multiplied by the respective amount per tonne listed for the year 2006 in point K of Annex VII.

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

(*) OJ L 178, 30.6.2001, p. 1".

(6) The following point (d) b is inserted in Article 145:

"(d) b detailed rules relating to the inclusion of sugar beet and chicory support in the single payment scheme; "

(7) Article 155 is replaced by the following:

"Article 155
Other transitional rules

Further measures required to facilitate the transition from the arrangements provided for in the Regulations referred to in Articles 152 and 153 and in Regulation (EC) No 1260/2001 to those established by this Regulation, notably those related to the application of Articles 4 and 5 and the Annex of Regulation (EC) No 1259/1999 and Article 6 of Regulation (EC) No 1251/1999 and from the provisions related to the improvement plans provided for in Regulation (EEC) No 1035/72 to those referred to in Articles 83 to 87 of this Regulation, may be adopted in accordance with the procedure referred to in Article 144(2) of this Regulation. Regulations and Articles referred to in Articles 152 and 153 shall continue to apply for the purpose of the establishment of the reference amounts referred to in Annex VII."

(8) The Annexes are amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply as from 1 January 2006.

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

Done at Brussels,

For the Council
The President

ANNEX

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

(1) In Annex I after the line for hops the following line is inserted:

"sugar beet and chicory used for inuline syrup production	Title IV, Chapter 10e of this Regulation (*****)	Production aid"

(2) Annex II is replaced by the following:

"ANNEX II
National ceilings referred to in Article 12(2)

(*EUR million*)

Member State	2005	2006	2007	2008	2009	2010	2011	2012
Belgium	4,7	6,3	7,9	7,9	7,9	7,9	7,9	7,9
Denmark	7,7	10,4	13	13	13	13	13	13
Germany	40,4	54,7	68,4	68,4	68,4	68,4	68,4	68,4
Greece	45,4	61,1	76,7	76,7	76,7	76,7	76,7	76,7
Spain	56,9	77,1	96,4	96,4	96,4	96,4	96,4	96,4
France	51,4	68,7	85,9	85,9	85,9	85,9	85,9	85,9
Ireland	15,3	20,4	25,6	25,6	25,6	25,6	25,6	25,6
Italy	62,3	84,7	106,6	106,6	106,6	106,6	106,6	106,6
Luxembourg	0,2	0,3	0,4	0,4	0,4	0,4	0,4	0,4
Netherlands	6,8	9,6	12,1	12,1	12,1	12,1	12,1	12,1
Austria	12,4	17,1	21,3	21,3	21,3	21,3	21,3	21,3
Portugal	10,8	14,6	18,3	18,3	18,3	18,3	18,3	18,3
Finland	8	10,8	13,6	13,6	13,6	13,6	13,6	13,6
Sweden	6,6	8,8	11,0	11	11	11	11	11
United Kingdom	17,7	23,6	29,5	29,5	29,5	29,5	29,5	29,5

".

(3) The following row is added to Annex VI:

"Sugar beet and chicory used for the production of inuline syrup	Regulation (EC) No 1260/2001	Payment to sugar beet growers and producers of chicory used for the production of inuline syrup (as applied according to Annex VII, point K, to this Regulation)"

(4) The following is added to Annex VII:

"K. Sugar beet and chicory

Member States shall calculate the amount to be included in the reference amount of farmers by multiplying the average number of hectares under sugar beet or chicory used for the production of A or B sugar or inuline syrup and covered by a delivery contract concluded in accordance with Article 19 of Regulation (EC) No 1260/2001 for a representative period of one or more marketing years as from the marketing year 2000/2001, to be determined by Member States in accordance with objective and non-discriminatory criteria, by the relevant following amount:

Member State	**2006** *EUR/hectare* Sugar payments	**2007 and thereafter** *EUR/hectare* Sugar payments
BE	415.5	716.0
DK	323.7	577.8
DE	334.6	600.7
EL	404.6	662.8
ES	477.0	761.5
FR (cont)	396.4	708.4
IE	351.8	576.3
IT	321.6	547.6
NL	360.2	634.4
AT	420.7	730.9
PT (cont)	562.7	921.7
FI	255.3	418.1
SE	371.6	608.6
UK	422.3	691.7
CZ	422.0	670.4
HU	403.7	633.5
LV	299.2	469.2
LT	231.6	363.0
PL	290.9	467.7
SK	352.6	575.8
SI	382.1	625.8

Where the totality of the amounts to be included in the reference amount of farmers calculated in accordance with the first paragraph exceeds the limits of the ceilings referred to in the table hereafter expressed in thousands of euros, the amounts per farmer shall be reduced accordingly.

(*EUR '000*)

Member State	**2006**	**2007 and subsequent**
Belgium	48 588	83 729
Czech Republic	27 849	44 245
Denmark	19 312	34 478
Germany	154 780	277 946
Greece	17 939	29 384
Spain	60 267	96 203
France	151 144	270 081
Hungary	25 433	39 912
Ireland	11 258	18 441
Italy	79 854	135 994
Latvia	4 219	6 616
Lithuania	6 547	10 260
Netherlands	42 027	74 013
Austria	18 929	32 891
Poland	99 125	159 392
Portugal	3 939	6 452
Slovakia	11 812	19 289
Slovenia	2 993	4 902
Finland	8 254	13 520
Sweden	20 807	34 082
United Kingdom	64 333	105 376

(5) Annex VIII is replaced by the following:

"ANNEX VIII
National ceilings referred to in Article 41

(*EUR '000*)

Member State	2005	2006	2007, 2008 and 2009	2010 and subsequent
Belgium	411 053	579 161	613 782	613 782
Denmark	943 369	1 015 477	1 030 478	1 030 478
Germany	5 148 003	5 646 981	5 769 946	5 769 946
Greece	838 289	1 719 228	1 752 673	1 752 673
Spain	3 266 092	4 125 330	4 359 266	4 359 266
France	7 199 000	7 382 144	8 361 081	8 361 081
Ireland	1 260 142	1 333 563	1 340 521	1 340 521
Italy	2 539 000	3 544 371	3 599 994	3 599 994
Luxembourg	33 414	36 602	37 051	37 051
Netherlands	386 586	428 613	853 599	853 599
Austria	613 000	632 929	744 891	744 891
Portugal	452 000	496 939	565 452	565 452
Finland	467 000	475 254	565 520	565 520
Sweden	637 388	670 915	763 082	763 082
United Kingdom	3 697 528	3 934 753	3 975 849	3 975 849

(6) Annex VIIIa is replaced by the following:

"Annex VIIIa
National ceilings referred to in Article 71c

(*EUR 1000*)

Calendar year	Czech Republic	Estonia	Cyprus	Latvia	Lithuania	Hungary	Malta	Poland	Slovenia	Slovakia
2005	228 800	23 400	8 900	33 900	92 000	350 800	670	724 600	35 800	97 700
2006	294 549	27 300	12 500	43 819	113 847	445 633	830	980 825	44 893	127 212
2007	387 845	40 400	16 300	62 216	157 160	548 212	1 640	1 300 192	61 002	165 889
2008	473 445	50 500	20 400	76 116	193 860	674 812	2 050	1 585 292	75 002	202 489
2009	559 145	60 500	24 500	90 016	230 560	801 512	2 460	1 870 392	89 002	238 989
2010	644 745	70 600	28 600	103 916	267 260	928 112	2 870	2 155 492	103 002	275 489
2011	730 445	80 700	32 700	117 816	303 960	1 054 812	3 280	2 440 492	117 002	312 089
2012	816 045	90 800	36 800	131 716	340 660	1 181 412	3 690	2 725 592	131 002	348 589
subsequent years	901 745	100 900	40 900	145 616	377 360	1 308 112	4 100	3 010 692	145 102	385 189

".

2005/0120 (CNS)

Proposal for a

COUNCIL REGULATION

establishing a temporary scheme for the restructuring of the sugar industry in the European Community and amending Regulation (EC) No 1258/1999 on the financing of the common agricultural policy

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion from the European Parliament,

Having regard to the opinion from the European Economic and Social Committee,

Whereas:

(1) Due to developments within the Community and at international level the sugar industry in the Community is faced with structural problems which could seriously put at stake the competitiveness and even the viability of the industry as a whole. These problems cannot be addressed effectively by using the market management instruments as provided for in the common market organisation (CMO) for sugar. To bring the Community system of sugar production and trading in line with international requirements and ensure its competitiveness in the future it is necessary to launch a profound restructuring process leading to a significant reduction of unprofitable production capacity in the Community. To this end, as a precondition for the implementation of a functioning new common market organisation for sugar a separate and autonomous temporary scheme for the restructuring of the sugar industry in the Community should be established. Under this scheme quotas should be reduced in a manner that takes account of the legitimate interests of the sugar industry, sugar beet and chicory growers and consumers in the Community.

(2) A temporary restructuring fund should be set up in order to finance the restructuring measures for the Community sugar industry. For reasons of sound financial management the fund should form part of the Guarantee Section of the EAGGF and thus be governed by the procedures and mechanisms of Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy[18].

[18] OJ L 160, 26.6.1999, p. 103.

(3) Owing to the fact that outermost regions are currently the object of development programmes aimed at improving their competitiveness in raw sugar production and also produce raw cane sugar in competition with third countries, which are not subject to the temporary restructuring amount, undertakings in outermost regions should not fall under the scope of this regulation.

(4) The restructuring measures provided for by this Regulation should be financed by raising temporary amounts from those sugar, isoglucose and inuline syrup producers which will eventually benefit from the restructuring process. As this amount falls outside the scope of the charges traditionally known in the framework of the sugar CMO, the proceeds resulting from its collection should be considered as "assigned revenue" as provided for by Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities[19].

(5) An important economic incentive for sugar undertakings with the lowest productivity to give up their quota production in the form of an adequate restructuring aid during a limited period should be introduced. To this effect, a restructuring aid should be set up that creates an incentive to abandon production and renounce the quotas concerned, at the same time allowing to take into due account the respect of social and environmental commitments linked to the abandon of production. The aid should be available during four marketing years with the aim to reduce production to the extent necessary to reach a balanced market situation in the Community.

(6) In the regions most concerned by the restructuring process it might prove to be appropriate to encourage the development of alternatives to sugar beet growing and sugar production. To this effect Member States should have the possibility at a later stage in the process to allocate a certain part of the money available from the restructuring fund to diversification measures compatible with should be compatible in particular with the objectives of the structural funds.

(7) Full direct income support for sugar beet and chicory growers will only be available as from the marketing year 2007/2008. To adequately support growers that have to give up production already in the marketing year 2006/2007 due to the closure of factories they had supplied previously with sugar beet or chicory an additional payment to the growers concerned should be foreseen.

(8) The temporary restructuring fund will finance measures which due to the nature of the restructuring mechanism do not fall under the categories of expenditure referred to in Articles 1(2), 2 and 3 of Regulation (EC) No 1258/1999. It is therefore necessary to amend that Regulation accordingly,

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[19] OJ L 248 of 16.9.2002, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1
Temporary restructuring fund

1. This Regulation establishes a temporary fund for the restructuring of the sugar industry in the European Community (referred to hereinafter: "temporary restructuring fund"). This regulation shall not apply to the outermost regions.

   The temporary restructuring fund shall form part of the Guarantee Section of the EAGGF.

2. The fund shall finance the expenditure resulting from the measures provided for under Articles 3 and 4 of this Regulation.

3. The proceeds resulting from the collection of the temporary restructuring amount referred to in Article 6 shall be revenue assigned to the temporary restructuring fund in accordance with Article 18(2) of Regulation (EC, Euratom) No 1605/2002.

   Any amounts that may be available in the fund after the financing of the expenditure referred to in paragraph 2 shall be assigned to the Guarantee Section of the EAGGF.

Article 2
Definitions

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

(1) "isoglucose" means the product obtained from glucose or its polymers with a content by weight in the dry state of at least 10 % fructose;

(2) "inuline syrup" means the immediate product obtained by hydrolysis of inuline or oligofructoses, containing in the dry state at least 10 % fructose in free form or as sucrose, and expressed as sugar/isoglucose equivalents;

(3) "agreement within the trade" means one of the following:

   (a) an agreement concluded at Community level, prior to the conclusion of any delivery contract, between a group of national undertakings' organisations on the one hand and a group of national sellers' organisations on the other,

   (b) an agreement concluded, prior to the conclusion of any delivery contract, between undertakings or a undertakings' organisation recognised by the Member State concerned on the one hand and a sellers' association recognised by the Member State concerned on the other,

   (c) in the absence of any agreement as referred to in point (a) or (b), the law on companies and the law on cooperatives, in so far as they govern the delivery of sugar beet by the shareholders or members of a company or cooperative manufacturing sugar,

   (d) in the absence of any agreement as referred to in point (a) or (b), the arrangements existing before the conclusion of any delivery contract, provided

the sellers accepting the arrangement supply at least 60 % of the total beet bought by the undertaking for the manufacture of sugar in one or more factories.

Article 3
Restructuring aid

1. Any undertaking producing sugar, isoglucose or inuline syrup to which a quota has been allocated prior to the application of this Regulation shall be entitled to a restructuring aid per tonne of quota renounced, provided that it abandons production during one of the marketing years 2006/2007, 2007/2008, 2008/2009 and 2009/2010. Abandonment of production during the marketing year 2005/2006 shall be deemed to have taken place in the marketing year 2006/2007.

   The restructuring aid shall be paid for the quantity of quota renounced. However, where the quantity actually produced under quota in the factory concerned did not reach the level of quota during one of the five marketing years preceding that of the closure of the factory, the restructuring aid shall be paid for the quantity effectively produced in the last marketing year prior to that closure.

2. Abandonment of production shall require:

   (a) the renunciation of the relevant quota after consultations to be conducted in the framework of the relevant agreements within the trade,

   (b) the definitive and total stop of production in at least one factory,

   (c) the closure of the factory or the factories concerned and the dismantling of the production facilities thereof, and

   (d) the restoring of the good environmental conditions of the factory site and the facilitation of redeployment of the workforce.

3. Applications for restructuring aid shall be submitted to the Member State by 31 January of the year preceding the marketing year during which the production is to be abandoned at the latest. However, applications shall be submitted by 31 July 2006 at the latest for production to be abandoned in the marketing year 2006/2007.

   Applications for restructuring aid shall include:

   (a) a commitment to renounce the relevant quota;

   (b) a commitment to abandon definitively and totally production in at least one factory during the marketing year concerned. The marketing year 2006/2007 shall be deemed to be the following marketing year for applications submitted before 1 August 2006;

   (c) a commitment to meet the requirements provided for in paragraphs 2(c) and (d) within a period of time to be determined by the Member State.

   The respect of these commitments shall be subject to a decision granting the aid as referred to in paragraph 7.

4. Restructuring aid shall be granted exclusively for the marketing year during which the production is abandoned in accordance with paragraph 2(b).

5. The amount of restructuring aid per tonne of renounced quota shall be set at:

– EUR 730 for the marketing year 2006/2007,

– EUR 625 for the marketing year 2007/2008,

– EUR 520 for the marketing year 2008/2009,

– EUR 420 for the marketing year 2009/2010.

6. The restructuring aid shall be paid in two instalments:

– 40% in June of the marketing year concerned and

– 60% in February of the following marketing year.

7. By the end of February preceding the marketing year concerned at the latest Member States shall decide on the granting of restructuring aid. However, the decision for the marketing year 2006/2007 shall be adopted by 31 August 2006 at the latest.

8. In the marketing years 2008/2009 and 2009/2010, part of the restructuring aid may be earmarked for diversification measures in regions most affected by the measures under this Regulation. In the marketing year 2008/2009 the amount concerned shall not exceed 20% of the restructuring aid. In the marketing year 2009/2010, any remaining finance from the restructuring aid may be affected to these measures.

Article 4
Additional payment to sugar beet growers

1. Sugar beet growers shall be entitled to an additional payment, provided that they have ceased the delivery of sugar beet to a factory that has abandoned sugar production during the marketing year 2006/2007 in accordance with Article 3(1).

2. Applications for additional payments shall be submitted to the Member State by 31 October 2006 at the latest.

3. Member States shall pay additional payments in June 2007.

4. The amount of additional payment shall be set at EUR 4,68 per tonne of the quantity of A and B sugar beet delivered under Regulation (EC) No 1260/2001 to the factory concerned during the last marketing year of production.

Article 5
Financial limits

1. Restructuring aid claimed for any of the marketing years referred to in Article 3(1) and additional payments, as provided for in Article 4, claimed for the marketing year 2006/2007 shall only be granted within the limits of the appropriations available in the temporary restructuring fund for the marketing year concerned.

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

2. Applications that have been excluded from the benefit from restructuring aid pursuant to paragraph 1 in respect of the marketing years 2006/2007, 2007/2008 or 2008/2009 shall be taken into account for the granting of aid in respect of the following marketing year. However, no additional payments shall be granted for any marketing year after 2006/2007.

Article 6
Temporary restructuring amount

1. A temporary restructuring amount is hereby introduced on the quotas held by the undertakings producing sugar, isoglucose or inuline syrup during the marketing years 2006/2007, 2007/2008 and 2008/2009.

   Quotas that have been renounced by an undertaking during a given marketing year in accordance with Article 3(2)(a) shall not be subject to the payment of a temporary restructuring amount for the marketing year concerned and subsequent marketing years.

2. The temporary restructuring amount shall be set at

   – EUR 126.40 per tonne of quota for the marketing year 2006/2007,

   – EUR 91.00 per tonne for the marketing year 2007/2008 and

   – EUR 64.50 per tonne for the marketing year 2008/2009.

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

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

   – 60% by 31 March of the marketing year concerned at the latest and

   – 40% by 30 November of the following marketing year at the latest.

4. If the temporary restructuring amount is not paid before the due date, the Commission shall, after consultation of the Committee of the European Agricultural Guidance and Guarantee Fund, deduct a sum equivalent to the unpaid restructuring amount from the monthly advances on the provision for expenditure effected by the Member State concerned, referred to in Article 5(1) and Article 7(2) of Regulation (EC) No 1258/1999. Before taking its decision, the Commission shall give the Member States the opportunity to submit its observations within a period of two weeks. The provisions of Article 14 of Council Regulation (EC) No 2040/2000 shall not apply.

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

Undertakings shall pay the temporary restructuring amounts in two instalments:

– 60% by the end of February of the marketing year concerned at the latest,

– 40% by 31 October of the following marketing year at the latest.

Article 7
Detailed rules

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

Article 8
Specific measures

Measures which are both necessary and justifiable in an emergency, in order to resolve practical specific problems shall be adopted in accordance with the procedure referred to in Article 13 of Regulation (EC) No 1258/1999.

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

Article 9
Amendments to Regulation (EC) No 1258/1999

(1) Regulation (EC) No 1258/1999 is amended as follows:

(a) In Article 1(2) the following point (f) is inserted:

"(f) temporary restructuring aid and additional payments to sugar beet growers provided for in Articles 3 and 4 of Regulation (EC) No …../2005."

(b) In Article 3 the following paragraph is inserted:

"(3a) temporary restructuring aid and additional payments to sugar beet growers provided for in Articles 3 and 4 of Regulation (EC) No …../2005 granted in accordance with Community rules shall be financed under Article 1(2)(f)."

[(2) Regulation (EC) No ……./2005 is amended as follows:

(a) In Article 3(1) the following is added:

"(e) temporary restructuring aid and additional payments to sugar beet growers provided for in Articles 3 and 4 of Regulation (EC) No …../2005 granted in accordance with Community rules."

(b) In Article 34:

– the following point (c) is added to paragraph 1:

"(c) temporary restructuring amounts to be collected under Regulation (EC) No ……/2005."

– in paragraph 2 the words "The amounts referred to in paragraph 1(a) and (b)" are replaced by "The amounts referred to in paragraph 1(a), (b) and (c)".

– the following is added:

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

Article 10
Entry into force

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

It shall apply from the marketing year 2006/2007.

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

Done at Brussels,

For the Council
The President

[*] [Awaiting the adoption of the proposed Council Regulation (EC) No …./2005 on the financing of the common agricultural policy.]

FINANCIAL STATEMENT

1.	BUDGET HEADING: (nomenclature 2006) 110-112-115-116 05 02 05 05 03 01 05 03 02	APPROPRIATIONS (PDB 2006): M Eur 556 M Eur 1 498 M Eur 16 375 M Eur 18 118

2. TITLE:
Council regulation on the common organisation of the markets in the sugar sector

Council regulation amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers

Council regulation establishing a temporary scheme for the restructuring of the sugar industry in the European Community and amending Council Regulation (EC) n°1258/1999 on the financing of the common agricultural policy

3. LEGAL BASIS:
Articles 36 and 37 of the Treaty

4. AIMS:
Following the CAP reform of 2003, this proposal aims at :
- improving the competitiveness of the sugar sector;
- promoting the sustainability and market orientation of the sugar sector;
- ensuring the restructuring of the sector in good conditions for the economic operators while respecting environmental criteria.

5.	FINANCIAL IMPLICATIONS	FINANCIAL YEAR 2007 (EUR million)	FINANCIAL YEAR 2008 (EUR million)	FINANCIAL YEAR 2009 (EUR million)
5.0	EXPENDITURE CHARGED TO THE EU BUDGET	-195	52	22
5.1	REVENUE OWN RESOURCES OF THE EU (see annex 1)	232	-324	-334

		2010	2011	2012	2013
5.0.1	EXPENDITURE CHARGED TO THE EU BUDGET	22	11	22	22
5.1.1	REVENUE OWN RESOURCES OF THE EU	-344	-344	-344	-344

5.2	METHOD OF CALCULATION: See annex 2	
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?	YES-NO
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?	YES-NO
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?	YES-NO
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?	YES NO

OBSERVATIONS:
This proposal does not have any impact on staff and administrative expenditure managing this sector.

FINANCIAL STATEMENT – ANNEX 1- :

IMPACT ON THE REVENUE SIDE

1. NAME OF THE PROPOSAL :

Council regulation on the common organisation of the markets in the sugar sector

2. BUDGET LINES :

Chapter and Article :
Chapter 11- article 110- sugar production levies
Chapter 11- article 112 – isoglucose production levies
Chapter 11- article 115 – production levy for inulin syrup
Chapter 11- article 116 – additional levies provided for in Council Regulation (EEC) n°1107/88

Amount budgeted for the year concerned (PDB 2006) :
Chapter 11- article 110 : 547 M€
Chapter 11- article 112 : 7 M€
Chapter 11- article 115 : 2 M€
Chapter 11- article 116 : 0 M€

3. FINANCIAL IMPACT

☐ Proposal has no financial implications

☐ Proposal has no financial impact on expenditure but has a financial impact on revenue – the effect is as follows:

(€ million)

Budget line	Revenue[1]	12 month period, starting 01/01/2007	2008
Article 110	*Impact on own resources*	240	-320
Article 112	*Impact on own resources*	-6	-2
Article 115	*Impact on own resources*	-2	-2
Article 116	*Impact on own resources*	0	0
TOTAL	***Impact on own resources***	**232**	**-324**

[1] Regarding traditional own resources (agricultural duties, sugar levies, customs duties) the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % of collection costs

1

Situation following action					
	2009	2010	2011	2012	2013
Article 110	-331	-341	-341	-341	-341
Article 112	-1	-1	-1	-1	-1
Article 115	-2	-2	-2	-2	-2
Article 116	0	0	0	0	0
TOTAL	**-334**	**-344**	**-344**	**-344**	**-344**

4. ANTI-FRAUD MEASURES

5. OTHER REMARKS

ANNEXE 2

		status quo		2007	2008	2009	2010	2011	2012	2013
	Restructuring scheme									
1	**Cumulative balance (*)**			**812**	**359**	**665**	**227**	**11**	**0**	**0**
2	-> revenues assigned to restructuring fund			1.937	1.313	876	0	0	0	0
3	temporary restructuring amount			1.937	1.313	876	0	0	0	0
4	-> restructuring expenditure			1.125	1.765	571	438	217	0	0
5	restructuring aid			1.010	1.765	571	438	217	0	0
6	additional payment to sugar beet growers			115	0	0	0	0	0	0

(*) any amounts that may be available after the financing shall be assigned to EAGGF- section Guarantee-

		status quo		2007	2008	2009	2010	2011	2012	2013
	Market measures expenditure									
7	Export refunds	1.253		396	30	0	0	0	0	0
8	Production refunds for chemical ind.	223		22	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
9	Aid for sugar refining	41		0	0	0	0	0	0	0
10	Direct aid (compensation 60%)			880	1.497	1.497	1.497	1.497	1.497	1.497
11	POSEI include	18		42	60	60	60	60	60	60
12	*Aid. DOM*			*15*	*15*	*15*	*15*	*15*	*15*	*15*
13	*Direct aid (compensation 60%)*			*27*	*45*	*45*	*45*	*45*	*45*	*45*
14	Securing refiners supply			p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
15	Private storage scheme			p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
16	**TOTAL 1**	**1.535**		**1.340**	**1.587**	**1.557**	**1.557**	**1.546**	**1.557**	**1.557**
17	Impact on EAGGF			-195	52	22	22	11	22	22

		status quo		2007	2008	2009	2010	2011	2012	2013
	Revenue									
18	production levies	498		0	0	0	0	0	0	0
19	one-off amount			730	0	0	0	0	0	0
20	production charge			0	174	164	154	154	154	154
21	surplus amount			p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
22	**TOTAL 2**	**498**		**730**	**174**	**164**	**154**	**154**	**154**	**154**
23	Impact on revenue			232	-324	-334	-344	-344	-344	-344