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COMMISSION REGULATION (EC) No 314/2002
of 20 February 2002
laying down detailed rules for the application of the quota system in the sugar sector

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COMMISSION REGULATION (EC) No 314/2002

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laying down detailed rules for the application of the quota system in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1], and in particular Articles 13(3), 14(4), 15(8), 16(5), 18(5) and the second paragraph of Article 41 thereof,

Whereas:

(1) Recent amendments to the common organisation of the market in sugar for the 2001/02 to 2005/06 marketing years introduced by Regulation (EC) No 1260/2001 require some changes to be made to the measures for implementing the quota system. Commission Regulation (EEC) No 1443/82 of 8 June 1982 laying down detailed rules for the application of the quota system in the sugar sector [2], as last amended by Regulation (EC) No 392/94 [3], having, moreover, already been substantially amended a number of times, in the interests of clarity that Regulation should be recast.

(2) For the application of the quota system in the sugar sector, precise definitions are required of an undertaking's production of sugar, isoglucose or inulin syrup and of internal Community consumption. For this purpose all the white sugar, raw sugar, invert sugar and syrups or, as the case may be, isoglucose or inulin syrup actually produced by an undertaking should be treated as that undertaking's production. The possibility of allocating part of the production of one undertaking to another undertaking which has had sugar produced under contract should be restricted to specific cases. Without prejudice to circumstances of *force majeure*, such cases must be determined so as to avoid financial consequences in the sugar sector.

(3) The smooth and efficient application of the quota system in the Community requires that the method for recording production of sucrose syrups, isoglucose and inulin syrup be laid down.

(4) The production of isoglucose is completely accomplished as soon as the glucose or its polymers have undergone the process known as ‘isomerisation’. Thus, in order to avoid arbitrary choices of the moment at which production is recorded, such recording should take place as soon as the isomerisation process has ended and before any operation to separate the glucose and fructose constituents or to produce mixtures. In order to make this control as effective as possible, isoglucose manufacturers in the Community should be required to notify the competent authorities of the Member State in question of every isomerisation facility used by them.

(5) Inulin syrup in product form generally appears as such from the moment that the inulin or its oligofructoses have undergone the process known as hydrolysis and first evaporation. This means that production should be recorded immediately after the hydrolysis and first evaporation process has ended and before any operation to separate the glucose and fructose constituents or to produce mixtures.

(6) In order to enable the Member States to establish correctly and unequivocally the production of inulin syrup, it should be speci-

[1] OJ L 178, 30.6.2001, p. 1.
[2] OJ L 158, 9.6.1982, p. 17.
[3] OJ L 53, 24.2.1994, p. 7.

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fied, on the basis of past experience in particular, that this operation is to be carried out with reference to an inulin syrup with an 80 % fructose content and a sugar/isoglucose equivalent expressed by application of a coefficient of 1,9.

(7) The production levies provided for in Article 15 of Regulation (EC) No 1260/2001 cannot be fixed until after the end of the marketing year in view of the fact that a large proportion of the export commitments are made in the second half of the marketing year and that the data serving to establish the production levies are available only at that point. Therefore, in order to implement as soon as possible the financial responsibility of producers, payment in advance of levies calculated on the basis of estimates should be made well before the end of the marketing year. Since most production of B isoglucose does not, in general, take place until the last months of the marketing year, advance payment of the basic production levy only should be required in respect of isoglucose produced before 1 March of the marketing year in question. The levies should not be fixed or collected until information which is as precise as possible, in particular on consumption, is to hand.

(8) Rules should be laid down for payment of an additional price component for beet where the production levy is less than the maximum amount, and provision should also be made for an additional payment taking account, in particular, of the period between the date of payment for the beet and the date of payment of production levies by the manufacturer.

(9) To facilitate proper management of the quota system, the necessary time limits for recording production and for communicating relevant data should be laid down, and provision should be made, as necessary, for appropriate control measures by the Member States.

(10) The abolition of the system for compensating storage costs in the sugar sector from 1 July 2001 interrupted the availability of statistics on sugar stocks and disposal of sugar in the Community. In view of the importance of these statistics for the good management of the quota system, in particular for determining the monthly consumption of sugar and for drawing up supply balances, provision should be made for Community sugar producers and refiners to continue to provide the Member States with monthly data on sugar stocks and disposals.

(11) One of the characteristics of the organisation of the sugar sector is the fact that relations between sugar manufacturers and beet producers, in particular as regards the delivery of and payment for sugar beet, are generally governed by inter-trade agreements drawn up within the framework laid down in Community legislation. These inter-trade agreements may provide for arrangements which take account of the specific situation in the region in which they apply. Provision should therefore be made, with regard to the option given to manufacturers to make beet growers contribute towards the payment of the additional levy, for the arrangements for this contribution to be laid down in inter-trade agreements within the framework of Article 16(3) of Regulation (EC) No 1260/2001.

(12) Undertakings producing isoglucose, contrary to undertakings producing sugar which rely on production of sugar beet or sugar cane, are not authorised to use the option of carrying over production from one marketing year to the next.

(13) Isoglucose is produced on a constant basis throughout the marketing year in order to be able to respond quickly and without interruption to fluctuations in demand, which is highest at the start and end of each marketing year. However, the isoglucose produced is difficult to stock in sufficient quantities to meet these peaks in demand because extended storage threatens the essential sterility of the product. Under these circumstances, undertakings producing isoglucose have to discontinue produc-

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tion at the end of the marketing year to avoid producing C isoglucose which cannot be disposed of on the Community market. This situation is detrimental to undertakings producing isoglucose and requires provision to be made for a certain amount of flexibility in the monthly recording of isoglucose production. Such flexibility should however be limited to avoid introducing, by automatic use thereof, a concealed carry-over system and thus an indirect increase in the production quotas of those undertakings.

(14) In the operation of the quota system there may be some delays in the recovery of production levies. To ensure harmonious recovery of these sums in good time, rules should be laid down for fixing and collecting production levies.

(15) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the purposes of Articles 13 to 18 of Regulation (EC) No 1260/2001, 'sugar production' means the total quantity, expressed as white sugar, of:

(a) white sugar;

(b) raw sugar;

(c) invert sugar;

(d) syrups belonging to one of the following categories, hereinafter called 'syrups':

— sucrose or invert sugar syrups which are at least 70 % pure and are produced from sugar beet,

— sucrose or invert sugar syrups which are at least 75 % pure and are produced from sugar cane.

2. The following shall be excluded when the quantity referred to in paragraph 1 is being calculated:

(a) quantities of white sugar produced from raw sugar or syrups which were not produced in the undertaking which manufactured the white sugar;

(b) quantities of white sugar produced from raw sugar, syrups or sugar sweepings which were not produced during the marketing year in which the white sugar was manufactured;

(c) quantities of raw sugar produced from syrups which were not produced in the undertaking which manufactured the raw sugar;

(d) quantities of raw sugar produced from syrups which were not produced during the marketing year in which the raw sugar was manufactured;

(e) quantities of raw sugar processed into white sugar during the marketing year in question by the undertaking which produced them;

(f) quantities of invert sugar and syrups processed into alcohol or rum;

(g) quantities of syrups processed into sugar or invert sugar during the marketing year in question by the undertaking which produced them;

(h) quantities of syrups for spreading and those to be processed into 'Rinse appelstroop';

(i) quantities of sugar, invert sugar and syrups produced under inward-processing arrangements;

(j) quantities of invert sugar produced from syrups which were not produced by the undertaking which manufactured the invert sugar;

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(k) quantities of invert sugar produced from syrups which were not produced during the marketing year in which the invert sugar was manufactured.

3. Production shall be expressed in terms of white sugar in the following way:

(a) in the case of white sugar, disregarding differences in quality;

(b) in the case of raw sugar, on the basis of yield determined in accordance with Annex I to Regulation (EC) No 1260/2001;

(c) in the case of invert sugar, by multiplying production by the coefficient 1;

(d) in the case of syrups considered as intermediate products, on the basis of extractable sugar content determined in accordance with paragraph 5;

(e) in the case of syrups which are not considered as intermediate products, on the basis of sugar content, expressed as sucrose in accordance with Article 3(2) of Commission Regulation (EC) No 2135/95 ([1]).

4. Sugar sweepings from a previous sugar year shall be expressed as white sugar in proportion to the sucrose content.

5. Purity of syrups shall be calculated by dividing the total sugar content by the dry matter content.

The extractable sugar content shall be calculated by subtracting the difference between the dry matter content and the polarimetric reading for that syrup, multiplied by 1,70, from the polarimetric reading for the syrup in question. Dry matter content shall be determined in accordance with the areometric method.

However, the extractable sugar content can be established, for an entire marketing year, on the basis of the real yield in syrups.

Article 2

1. For the purposes of Articles 13 to 18 of Regulation (EC) No 1260/2001, 'isoglucose production' means the total quantity of product obtained from glucose or its polymers with a content by weight in the dry state of at least 10 % fructose irrespective of its fructose content in excess of that limit, expressed as dry matter and recorded in accordance with paragraph 2.

2. Isoglucose production shall be recorded as soon as the isomerisation process has terminated and before any operation to separate the glucose and fructose constituents or to produce mixtures, by physical metering of the volume of the product as such and determination of the dry matter content by refractometry.

3. Every isoglucose manufacturer shall be required to notify without delay any of its facilities which may be used for the isomerisation of glucose or its polymers.

Notification shall be made to the Member State on whose territory each facility is situated. The Member State may require the manufacturer to furnish additional information in this respect.

Article 3

1. For the purposes of Articles 13 to 18 of Regulation (EC) No 1260/2001, 'inulin syrup production' means the quantity of product obtained after the hydrolysis of inulin or oligofructoses with a content by weight in the dry state of at least 10 % fructose in free form or as sucrose, irrespective of its fructose content in excess of that limit, expressed as dry matter sugar/isoglucose equivalent, and established for each undertaking producing inulin syrup in accordance with paragraph 2.

([1]) OJ L 214, 8.9.1995, p. 16.

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2. Inulin syrup production shall be recorded by means of the combination of the following operations:

(a) physical metering of the volume of the product as such immediately after leaving the first evaporator after each hydrolysis and before any operation to separate the glucose and fructose constituents or to produce mixtures;

(b) determination of the dry matter content by refractometry and measurement of the fructose content by weight in the dry state, on the basis of daily representative sampling;

(c) conversion of the fructose content to 80 % by weight in the dry state by multiplying the quantity determined in dry matter by the coefficient representing the ratio between the measured fructose content of that quantity of syrup and 80 %;

(d) expression as sugar/isoglucose equivalent by applying the coefficient 1,9.

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Article 4

1. For each marketing year a Community supply balance for sugar, isoglucose and inulin syrup shall be drawn up and also a sugar supply balance for each Member State. The balances shall be consolidated at the end of the following marketing year.

2. Member States shall establish provisional sugar and inulin syrup production figures for the current marketing year for each undertaking located in their territories and notify them to the Commission before 1 March each year. Sugar production shall be broken down by month.

For the French departments of Guadeloupe and Martinique and for Spain as regards cane sugar, the provisional production shall be established and notified by 1 July each year.

3. Member States shall notify to the Commission before 1 June each year the areas and production of (a) beet for production of sugar, alcohol and other products respectively, and (b) chicory for production of inulin syrup, for the current marketing year and estimates of them for the following year.

4. Before 5 September each year Member States shall determine and notify to the Commission actual A, B and C production of sugar, isoglucose and inulin syrup respectively in the previous marketing year by each undertaking located in their territory. Sugar production shall be broken down by month.

5. Where it is necessary to amend actual sugar production on the basis of the information notified under paragraph 4, the resulting difference shall be taken into account in determining actual production in the marketing year during which this difference came to light.

6. Before 1 March each year Member States shall notify the Commission of the A and B sugar, isoglucose and inulin syrup allocations to each undertaking for the current marketing year.

Article 4a

1. Before the 15th day of each month each isoglucose-producing undertaking shall notify to the Member State on whose territory its production took place the quantities, expressed as dry matter, actually produced during the previous month.

Member States shall establish the isoglucose production of each such undertaking in each month and notify it to the Commission before the end of the second month following.

The quantities produced under inward processing arrangements shall be notified separately. They shall not count for the purposes of the second subparagraph.

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2. Notwithstanding the first and second subparagraphs of paragraph 1, a Member State's competent authorities may decide, at an isoglucose-producing undertaking's substantiated written request:

(a) either to combine its May and June production of the previous marketing year and count the figure against the current marketing year;

(b) or to combine all or part of its June production of a marketing year with its July production of the next marketing year and count the figure against the latter marketing year.

In the case set out in point (b) of the first subparagraph, the request for combination must indicate at least the June production quantity to be combined with the July figure. That quantity may not exceed 7 % of the sum of the undertaking's A and B quotas for the marketing year during which the request for combination is made. The combined quantity shall be considered as the first production against the undertaking's quotas.

In reaching its decision the Member State shall take into account the undertaking's production situation and market demand, with particular reference to quotas and production levies. An undertaking may benefit from only one of the two combination types indicated in the first subparagraph in a given marketing year.

3. After agreement by the Member State the undertaking shall notify to it, before the following 15 July (in the case referred to in point (a) of the first subparagraph of paragraph 2) or 15 August (in the case referred to in point (b) of the first subparagraph of paragraph 2) the quantities, expressed as dry matter, actually produced during the two-month period, account taken as appropriate of the actual quantity to be combined referred to in the second subparagraph of paragraph 2.

4. The Member State shall establish and notify to the Commission, before 15 October, the combined isoglucose production of the undertaking concerned during the two months in question that is to be counted against the current marketing year's production, in accordance with point (a) or (b) respectively of the first subparagraph of paragraph 2.

5. The provisions of point (b) of the first subparagraph of paragraph 2 shall not be applicable to the last marketing year indicated in Article 10(1) of Regulation (EC) No 1260/2001.

Article 4b

1. Each undertaking to which a sugar production quota has been granted and each refinery covered by Article 7(4) of Regulation (EC) No 1260/2001 shall notify to the competent authority of the Member State in which production or refining took place, before the 20th of each month, the total quantities, expressed as white sugar, of the sugars and syrups indicated in Article 1(1)(a), (b), (c), and (d) of this Regulation:

— owned by it or covered by a warrant, and

— stored in free circulation on Community territory at the end of the previous month.

Those quantities shall be broken down by Member State of storage into:

— sugar produced by that undertaking under A and B quotas,

— sugar carried forward in accordance with Article 14 of Regulation (EC) No 1260/2001,

— C sugar, and

— other sugar.

2. The authority indicated in paragraph 1 may also, for the purposes of administrative and physical checks, require undertakings to notify exact storage locations and purchases and sales of sugar.

If storage is in a different Member State from the one notifying the Commission, the latter Member State shall inform the former of the

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quantities stored on its territory and their locations by the end of the following month.

Each Member State shall notify to the Commission, before the end of the second month following, the total quantity of sugar stored at the end of each month by the undertakings indicated in paragraph 1, broken down by sugar type as indicated in the second subparagraph thereof.

The notification for stocks on 30 June shall however break down each type of sugar in storage by Member State of storage. Where the type of sugar stored outside the country of production is not determined, this sugar is deemed to be A and B sugar.

Before 31 August 2003 Member States shall notify the stocks of sugar on 30 June 2002 and 30 June 2003, broken down by Member State of storage and sugar type as indicated in paragraph 1.

3. ►M2 Each undertaking to which a production quota has been granted for isoglucose or inulin syrup shall notify to the competent authority of the Member State in which production took place, before 1 August, the quantities of isoglucose (expressed as dry matter) and of inulin syrup (expressed as white sugar equivalent) owned by it and stored in free circulation on Community territory at the end of the previous marketing year, broken down as follows: ◄

— isoglucose and inulin syrup produced by it under quotas A and B;

— C isoglucose and C inulin syrup; and

— other.

Member States shall notify to the Commission, before 1 September, the quantities of isoglucose and inulin syrup stored at the end of the previous marketing year, broken down as specified in the first subparagraph.

Article 4c

1. Undertakings producing C sugar shall notify to the competent authorities of the Member State in which it was produced, before the end of each month, the quantities they exported during the previous month. These shall be broken down by Member State of export.

Member States shall notify to the Commission, before the end of the second month following, the monthly quantity of C sugar exported by the undertakings indicated in the first subparagraph, broken down as specified therein.

On the basis of proof of export as indicated in Article 2 of Commission Regulation (EEC) No 2670/81 ([1]), Member States shall notify to the Commission, before 15 May, the quantity of C sugar exported in each month of the previous marketing year by the undertakings indicated in the first subparagraph, broken down as specified therein.

2. Undertakings that produced C sugar during one or both of the marketing years 2001/02 and 2002/03 shall before 1 August 2003 notify to the competent authorities of the Member State in which it was produced the quantities of it exported during the 2002/03 marketing year, broken down by Member State of export.

Member States shall notify to the Commission, before 5 September 2003, the quantities of C sugar exported by the above undertakings during the 2002/03 marketing year, broken down as specified therein.

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Article 5

1. For the purposes of Articles 13 to 18 of Regulation (EC) No 1260/2001 and subject to paragraphs 2 to 5 of this Article, the sugar or isoglucose production of an undertaking means the quantity of sugar or isoglucose actually manufactured by that undertaking.

([1]) OJ L 262, 16.9.1981, p. 14.

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2. For a given marketing year, the total sugar production of an undertaking shall be the production referred to in paragraph 1 plus the quantity carried over to that marketing year and minus the quantity carried over to the following marketing year.

3. Where two manufacturers make a signed application in writing to the Member State concerned, the quantity of sugar produced by an undertaking (hereinafter called 'the processor') under contract from materials supplied shall be treated as part of the production of the undertaking (hereinafter called 'the principal') which had the sugar produced under that contract provided that one of the following conditions is met:

(a) the total sugar production of the processor is less than it's a quota;

(b) the total sugar production of the processor is more than it's a quota but less than the sum of it's a and B quotas and the principal's total sugar production is more than it's a quota;

(c) the total sugar production of the processor and of the principal is more than the sum of their respective A and B quotas.

4. Where the factories of the principal and of the processor are situated in different Member States, the application referred to in paragraph 3 must be made to the two Member States concerned. In that case the Member States concerned shall act in concert as regards the response to be given, and shall take the necessary steps to verify that the conditions referred to in paragraph 3 are observed.

5. In accordance with the procedure laid down in Article 42(2) of Regulation (EC) No 1260/2001, the quantity of sugar produced by a processor may be considered to be produced by the principal if, owing to a case of *force majeure*, the beet, cane or molasses have to be processed into sugar in an undertaking other than that of the principal.

Article 6

1. Before 1 April the following action shall be taken in respect of the current marketing year:

(a) the basic production levy and B levy for sugar shall be estimated in accordance with Article 15 of Regulation (EC) No 1260/2001;

(b) the unit amounts, determined in accordance with Article 7 of this Regulation, to be paid by sugar manufacturers, isoglucose manufacturers and inulin syrup manufacturers as advance payments in respect of the levy shall be fixed in accordance with the procedure laid down in Article 42(2) of Regulation (EC) No 1260/2001.

2. Before 15 April of the current marketing year Member States shall establish the advance payments for that marketing year to be made by each sugar-producing undertaking, each isoglucose-producing undertaking and each inulin syrup-producing undertaking.

In the case of the French departments of Guadeloupe and Martinique and of Spain, in respect of cane sugar, these advance payments shall be fixed before 15 August of the current marketing year.

In the case of sugar and inulin syrup, the advance payment shall be determined:

(a) by applying to the provisional production of A sugar and A inulin syrup and B sugar and B inulin syrup, determined pursuant to Article 4(1), the unit amount fixed for the advance payment in respect of the basic production levy;

(b) by applying to the provisional production of B sugar and B inulin syrup, determined pursuant to Article 4(1), the unit amount fixed for the advance payment in respect of the B levy.

In the case of isoglucose, the advance payment shall be determined by applying to the production between 1 July and the end of the following February for the current marketing year the unit amount fixed for the advance payment in respect of the basic production levy on isoglucose.

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3. Member States shall collect these advance payments before 1 June of the current marketing year.

In the case of the French departments of Guadeloupe and Martinique and of Spain, in respect of cane sugar, these advance payments shall be collected before 1 September of the current marketing year.

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4. The quantities disposed of for consumption in the Community to be recorded under Article 15(1)(b) and (2)(a) of Regulation (EC) No 1260/2001 shall be established by totalling the quantities, expressed as white sugar, of the sugars and syrups indicated in Article 1(1)(a), (b), (c), and (d) and of isoglucose and inulin syrup:

(a) stored at the beginning of the marketing year;

(b) produced under quotas A and B;

(c) imported in the natural state;

(d) contained in imported processed products;

subtracting the quantities referred to in the first subparagraph, expressed as white sugar, of sugar, isoglucose and inulin syrup:

(a) exported in the natural state;

(b) contained in exported processed products;

(c) stored at the end of the marketing year;

(d) for which certificates for production refunds as indicated in Article 7(3) of Regulation (EC) No 1260/2001 have been issued.

Quantities as indicated in points (c) and (d) of the first subparagraph and in points (a) and (b) of the second subparagraph shall be extracted from the Eurostat databases and shall, if the figures for a marketing year are incomplete, cover the most recent 12 months available. Quantities produced under inward processing arrangements shall not be counted.

Quantities as indicated in point (c) of the first subparagraph and point (a) of the second subparagraph shall include those consigned to the Canary Islands, Madeira and the Azores covered by Article 1(1a) of Regulation (EEC) No 2670/81.

The quantities of sugar, isoglucose and inulin syrup in the products indicated in point (d) of the first subparagraph and point (b) of the second subparagraph shall be established on the basis of the average sugar contents established for the products concerned and of Eurostat figures.

Quantities as indicated in point (a) of the second subparagraph shall exclude C sugar, C isoglucose, C inulin syrup and food aid.

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5. The following shall be regarded within the meaning of Article 15(1)(d) of Regulation (EC) No 1260/2001 as export obligations to be fulfilled during the current marketing year:

(a) all quantities of sugar to be exported in the natural state with export refunds or levies fixed by means of tenders opened in respect of that marketing year;

(b) all quantities of sugar, isoglucose and inulin syrup to be exported in the natural state with export refunds or levies fixed periodically on the basis of export licences issued during that marketing year;

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(c) all foreseeable exports of sugar, isoglucose and inulin syrup in the form of processed products with export refunds or export levies fixed for that purpose during that marketing year.

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For the calculation of the foreseeable average loss referred to in Article 15(1)(d) of Regulation (EC) No 1260/2001, the production refunds for the quantities of basic products expressed as white sugar for which certificates for the production refunds referred to in Article 7(3) of

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that Regulation have been issued during the course of the marketing year in question shall also be taken into account.

Article 7

1. Where the estimate of the basic production levy on sugar and inulin syrup is at least 60 % of the maximum amount referred to in Article 15(3) of Regulation (EC) No 1260/2001, the unit amount of the advance payment shall be 50 % of that maximum amount.

Where the estimate is less than 60 % of that maximum amount, the unit amount of the advance payment shall be 80 % of that estimate.

2. Paragraph 1 shall also apply for determining the unit amount of the advance payment in respect of the B levy on sugar and inulin syrup, taking into account the maximum amount referred to in Article 15(4) and (5) of Regulation (EC) No 1260/2001.

3. The unit amount of the advance payment in respect of the basic production levy on isoglucose shall be 40 % of the unit amount of the basic production levy on sugar estimated in accordance with Article 6(1)(a) of this Regulation.

Article 8

1. There shall be fixed for sugar, isoglucose and inulin syrup before 15 October, in respect of the preceding marketing year:

(a) the amounts of the basic production levy and the B levy;

(b) if required, the coefficient referred to in Article 16(2) of Regulation (EC) No 1260/2001.

2. Before 1 November in respect of the preceding marketing year and taking into account the advance payments collected pursuant to Article 6, Member States shall determine the balance of the levies outstanding in the case of each sugar-producing undertaking, each isoglucose-producing undertaking and each inulin syrup-producing undertaking.

Balances due from the undertaking or from the Member State referred to in the first subparagraph shall be paid before 15 December following the deadline for determining those balances.

3. If a coefficient is adopted in accordance with Article 16(2) of Regulation (EC) No 1260/2001 the Member States shall, in accordance with the provisions of that paragraph, determine for each sugar-producing undertaking, for each isoglucose-producing undertaking and for each inulin syrup-producing undertaking, before 1 November in respect of the preceding marketing year, the additional levy to be paid by the manufacturers in question. This levy shall be collected at the same time as the balance of the production levies for that marketing year.

4. If the sum of the levies due by a producing undertaking has not been correctly established, the correct amount to be paid or balance due by the producing undertaking in question must be established within a period of 30 days from the date on which the Member State has noticed this situation and is able to calculate the amount legally due.

Member States shall collect the amounts referred to in the first subparagraph within 30 days of the date on which they are established.

Article 9

1. The amounts referred to in Article 18(2) of Regulation (EC) No 1260/2001 shall be fixed at the same time as the levies referred to in Article 8(1) of this Regulation and in accordance with the same procedure.

2. Where the price paid by a sugar manufacturer to the beet seller is lower than the basic price for beet, the manufacturer shall, to the extent of the difference in question, allow the beet seller a share of the increased value of the sugar in the light of the intervention price.

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For the purpose of calculating the amount corresponding to this share, the manufacturer shall take into account:

(a) the periods between the dates of payment for the beet and the dates laid down for the advance payments and payment of the balances in respect of the production levies and the additional levy;

(b) the European Central Bank's interest rate for main refinancing operations in the periods referred to in point (a). For a Member State which is not participating in the third stage of economic and monetary union, the reference rate shall be the equivalent rate set by its national central bank;

(c) the percentage laid down in Article 18(2) of Regulation (EC) No 1260/2001;

(d) the yield of the beet in question, without prejudice to Article 5(1) of Regulation (EC) No 1260/2001.

3. The amounts referred to in paragraph 1 and the amount corresponding to the share referred to in paragraph 2 shall be paid to the beet seller by the sugar manufacturer within four weeks following the date on which the levies referred to in Article 8(1) are fixed.

4. Inter-trade agreements may derogate from the provisions of paragraphs 2 and 3.

Article 10

Member States shall take all the measures necessary to establish the controls required for recording production of the products covered by this Regulation.

Article 11

The reimbursement referred to in the second and third subparagraphs of Article 16(3) of Regulation (EC) No 1260/2001 may, without prejudice to these provisions, be made in accordance with rules defined by an inter-trade agreement.

Article 12

Regulation (EEC) No 1443/82 is hereby repealed.

Article 13

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

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