# 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

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 specified, 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.

[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.

(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 production 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;

(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.

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.

*Article 4*

1. Before 15 February of each year Member States shall establish provisional sugar and inulin syrup production figures for the current marketing year for each undertaking situated on their territories.

For the French departments of Guadeloupe and Martinique, this production shall be recorded before 15 May each year.

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

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

On the basis of these communications Member States shall establish, in respect of each month and not later than the 15th day of the second month thereafter, the isoglucose production of each undertaking concerned.

In calculating the production referred to in the preceding subparagraph the quantities of isoglucose produced under inward-processing arrangements shall not be taken into account.

3. Notwithstanding the first and second subparagraphs of paragraph 2, the competent authorities of the Member State may decide, for a given isoglucose-producing undertaking, on the basis of a duly substantiated prior request in writing from the undertaking:

(a) either to combine the production of the months of May and June of a marketing year for counting against the marketing year in question;

(b) or to combine all or part of the production of the month of June of a marketing year with that of the month of July of the following marketing year for counting against the latter marketing year. The request for combination must indicate at least the quantity of the production of the month of June to be combined with that of the month of July. This quantity may not exceed 7 % of the sum of the A and B quotas of the undertaking in question applicable to the marketing year during which the request for combination is made. The quantity so combined shall be considered as the first production within the quotas of the undertaking concerned.

The Member State shall assess whether the request is justified, taking into account the production situation of the undertaking and market demand, in particular in the light of the quotas and production levies. Only one of the combination types referred to in the first subparagraph may be used by a given undertaking in a given marketing year.

After agreement by the Member State, the isoglucose-producing undertaking in question shall communicate to the Member State, before the following 15 July in the case referred to under (a) of the first subparagraph and before the following 15 August in the case referred to under (b) thereof, the quantities, expressed as dry matter, actually produced during the relevant two-month period, account being taken where appropriate of the quantities to be combined referred to under (b) of the first subparagraph.

On the basis of these communications the Member State shall establish the combined isoglucose production of the undertaking concerned during the two months in question to be counted against the production of the marketing year concerned in accordance with (a) or (b), as the case may be, of the first subparagraph. The Member State shall communicate this production to the Commission.

The provisions under (b) of the first subparagraph shall not be applicable to the last marketing year included in the period referred to in Article 10(1) of Regulation (EC) No 1260/2001.

4. Before 15 September of each year Member States shall establish final figures for sugar, isoglucose and inulin syrup production by each undertaking situated on their territories in the preceding marketing year.

5. Where differences are found after the establishment of final production figures for the sugar referred to in paragraph 4, such differences shall be taken into account when final production figures are established for the marketing year in which the differences are found.

6. Before the 25th day of each month, each sugar manufacturer shall communicate to the competent authority of the Member State on whose territory production takes place or to the authority of the Member State in question competent for intervention on the market in the product concerned, indicating the quantities which are its property or otherwise:

(a) the quantities of sugar, expressed as white sugar, stored in the facilities at its disposal at the end of the preceding calendar month;

(b) the quantities of sugar, expressed as white sugar, which left the facilities at its disposal during the preceding calendar month.

This communication should specify the breakdown of the quantities concerned between sugar produced within the A and B quotas, sugar carried forward in accordance with Article 14 of Regulation (EC) No 1260/2001, and C sugar.

The authority referred to in the first subparagraph may request the communication of additional data on stocks held by the manufacturer and on quantities leaving its facilities.

7. Before the 25th day of each month each refiner of raw sugar shall communicate to the competent authority of the Member State on whose territory refining takes place or to the authority of the Member State in question competent for intervention on the market for the product concerned, indicating the quantities which are its property or otherwise:

(a) the quantities of sugar, expressed as white sugar, stored in the facilities at its disposal at the end of the preceding calendar month;

(b) the quantities of sugar, expressed as white sugar, which left the facilities at its disposal during the preceding calendar month.

This communication must distinguish quantities subject to inward processing arrangements.

The authority referred to in the first subparagraph may request the communication of additional data on stocks held by the refiner and on quantities leaving the facilities in question.

*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.

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.

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.

4. The quantity to be determined under Article 15(1)(b) of Regulation (EC) No 1260/2001 shall be established on the basis of the sum of the following quantities:

(a) the quantities of sugar, isoglucose and inulin syrup disposed of in the Community for direct consumption or for consumption after processing by the user industries;

(b) the quantities of denatured sugar;

(c) the quantities of sugar, isoglucose and inulin syrup imported from non-member countries as processed products.

There shall be subtracted from the sum referred to in the first subparagraph the sum of the quantities of sugar, isoglucose and inulin syrup exported to non-member countries as processed products and the quantities of basic products expressed as white sugar for which certificates for the production refunds referred to in Article 7(3) of Regulation (EC) No 1260/2001 have been issued.

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;

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

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 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.

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.

Done at Brussels, 20 February 2002.

*For the Commission*

Franz FISCHLER

*Member of the Commission*