

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(81) 677 final

Brussels, 13 November 1981

Proposal for a
COUNCIL REGULATION (EEC)

laying down general rules for transfers of quotas in the sugar sector

(submitted to the Council by the Commission)

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EXPLANATORY MEMORANDUM

The aims of this proposal are:

- (a) to adapt the existing general rules of the Council governing the transfer of quotas so as to conform to the new basic sugar Regulation (EEC) No 1725/81 applicable as from 1 July 1981;
- (b) to introduce new provisions to take account of the experience gained in this field and to cover cases not provided for in the existing rules.

As regards (a), the intention is to extend to isoglucose the quota transfer arrangements hitherto applicable only to sugar-producing undertakings. This follows from the integration of isoglucose in the production system for sugar established by the new basic Regulation.

For the rest, the Commission proposes that the Council should extend to cases of factory amalgamations and transfers the right - hitherto reserved for transfers of undertakings - to allocate the quotas concerned in proportion to the absorbed production, including allocation to an undertaking not involved in the operation but with which some of the growers directly affected decide to associate themselves. This extension would cover cases of this kind which have arisen in the past. It would thus avoid conflict and would help to safeguard the interests of the growers.

For the same reasons the Commission also proposes that the Council should fill a gap in the existing rules by laying down provisions covering not only the case of an undertaking which closes down but also the case of a factory which closes down. As in the past, the allocation of the part of the quotas concerned in such a closure would be made pro rata to the absorbed production.

Finally, as regards the particular situation in the Italian beet sector and following the approach adopted by the Council in the new basic Regulation under which Italy may transfer quotas without limitation within the framework of restructuring, the Commission proposes that within the same framework the Council should adopt a less-rigid definition of a "sugar-producing enterprise" than that contained in Regulation (EEC) No 1043/67.

PROPOSAL FOR A COUNCIL REGULATION (EEC)

laying down general rules for transfers of quotas in the
sugar sector

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,
Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the
common organization of the markets in the sugar sector (1), and in particular
Article 25(4) thereof,

Having regard to the proposal from the Commission,

Whereas Article 25(1) of Regulation (EEC) No 1785/81 lays down that Member
States may transfer A quotas and B quotas between undertakings, taking into
consideration the interests of each of the parties concerned and in particular
those of sugar beet or sugar cane producers; whereas Article 25(4) provides
that general rules are to be adopted concerning the adjustment of quotas,
in particular in the event of an amalgamation or transfer of undertakings;

Whereas A quotas and B quotas are affected following an amalgamation or
transfer of undertakings, a transfer by an undertaking of one of its factories
or the closure of an undertaking or one of its factories; whereas, therefore,
conditions should be laid down for the adjustment by Member States of the quotas
of the undertakings in question;

Whereas it is essential that the adjustment of the quotas of sugar-producing
undertakings should not damage the interests of the sugar beet or sugar cane producers
concerned; whereas the Member States should be authorized to allocate quotas to undertakings
other than those directly concerned where some of the beet or cane producers
directly affected by an amalgamation, transfer or closure decide to enter
into an association with them;

Whereas the second subparagraph of Article 25(2) of Regulation (EEC) No 1785/81
authorizes Italy to adjust the quotas of undertakings without applying the 10%
limit where such transfers are made on the basis of restructuring plans in the
beet, cane and sugar manufacturing sectors; whereas in order to make imple-
mentation of such restructuring plans effective, Italy should be allowed, subject
to certain conditions, to regard a group of undertakings as a sugar-producing
undertaking;

(1) OJ NO L 177, 1.7.1981, p.4

Whereas for certain operations relating to isoglucose-producing undertakings, rules similar to those applicable to sugar should be laid down;

Whereas measures affecting quotas should be communicated to the Commission;

Whereas Council Regulation (EEC) No 3331/74 of 19 December 1974 on the allocation and alteration of the basic quotas for sugar (1), as last amended by Regulation (EEC) No 1785/81, should be repealed,

HAS ADOPTED THIS REGULATION:

(1) OJ No L 359, 31.12.1974, p.18

Article 1

Member States shall adopt appropriate measures to take account of the interests of sugar beet and sugar cane producers in the event of allocation of quotas to a sugar-producing undertaking having more than one factory.

Article 2

1. In the event of the amalgamation or transfer of sugar-producing undertakings and in the event of the transfer of sugar factories the A and B quotas shall, without prejudice to paragraph 2, be adjusted as follows:

- a) in the event of the amalgamation of sugar-producing undertakings, the Member State shall allocate to the undertaking resulting from the amalgamation an A quota and a B quota equal respectively to the sum of the A quotas and the sum of the B quotas allocated prior to the amalgamation to the sugar-producing undertakings concerned;
- b) in the event of the transfer of a sugar-producing undertaking, the Member State shall allocate to the transferee undertaking ^{for the production of sugar} / the A quota and the B quota of the undertaking transferred 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 A quota and the B quota of the undertaking transferring ownership of the factory and shall increase the A quota and the B 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 some of the sugar beet or cane producers directly affected by one of the operations referred to in paragraph 1 enter into an association with 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 with which they enter into an association.

3. In the event of the closure of a sugar-producing undertaking or one or more factories of a sugar-producing undertaking in circumstances other than those referred to in paragraph 1, the Member State may allocate the part of the quotas involved in such closure to one or more sugar-producing undertakings in proportion to the production absorbed.

Article 3

Without prejudice to Article 9, the measures affecting quotas adopted by virtue of Article 2 may take effect only if:

- (a) the interests of the sugar beet or sugar cane producers concerned are safeguarded ;
- (b) the Member State concerned considers them to be such as to improve the structure of the beet, cane and sugar manufacturing sectors; and
- (c) they concern sugar-producing undertakings established in the same region within the meaning of Article 24(2) of Regulation (EEC) No 1785/81.

Article 4

For the purposes of transfers of quotas in Italy under the restructuring plans referred to in the second subparagraph of Article 25 (2) of Regulation (EEC) No 1785/81, a group of sugar-producing undertakings having technical, economic and structural links and joint responsibility for their obligations, particularly in respect of beet growers, under Community rules may be regarded as a sugar-producing undertaking.

Article 5

In the event of the amalgamation or transfer of isoglucose-producing undertakings, in the event of the transfer of an isoglucose factory and in the event of the closure of an isoglucose-producing undertaking or one or more isoglucose factories, the Member State may allocate the quotas in question for the production of isoglucose to one or more undertakings provided that such allocation concerns undertakings established in the same region within the meaning of Article 24 (2) of Regulation (EEC) No 1785/81.

Article 6

For the purposes of this Regulation:

- a) "amalgamation of undertakings" means the consolidation into a single undertaking of two or more undertakings, each having quotas;
- b) "transfer of an undertaking" means the transfer of the assets of an undertaking having quotas 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 in question, to one or more undertakings, resulting in the partial or total absorption of the production of the undertaking making the transfer.

Article 7

The measures referred to in Articles 2 and 5 shall take effect when the closure of the undertaking or factory, the amalgamation or transfer occurs:

- a) between 1 July and 31 January of the following year, for the current marketing year;
- b) between 1 February and 30 June of the same year, for the following marketing year.

Article 8.

Where a Member State applies Article 25 (2) of Regulation (EEC) No 1785/81, it shall allocate the adjusted quotas before 1 March with a view to applying them in the following marketing year.

Article 9

1. For the marketing years 1982/83 to 1985/86:

- (a) measures affecting quotas which are contemplated by a Member State pursuant to Article 25 (2) of Regulation (EEC) No 1785/81 and Articles 2 and 5 of this Regulation shall not take effect until they have been communicated to the Commission and the Member State has adopted the appropriate measures for the corresponding transfer of the minimum stock obligations;
- (b) Member States shall inform the Commission, before 15 March of the A and B quotas which they intend to adjust in respect of the following marketing year under the provisions of Article 25(2) of Regulation (EEC) No 1785/81.

2. Where Articles 2 and 5 are applied, Member States shall inform the Commission, not later than 10 days following expiry of the periods referred to in Article 7, of the A and B quotas which they intend to adjust.

Article 10

Regulation (EEC) No 3331/74 is hereby repealed.

Article 11

This Regulation shall enter into force on the third 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

For the Council