

## REGULATION (EEC) No 1898/68 OF THE COUNCIL

of 26 November 1968

introducing measures to deal with basic quotas for sugar in the event of undertakings being merged or transferred or of factories being transferred or leased

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 1009/67 EEC<sup>1</sup> of 18 December 1967 on the common organisation of the market in sugar, and in particular Article 23 (3) thereof;

Having regard to the proposal from the Commission;

Whereas the object of the original allocation of basic quotas by Member States to individual undertakings or factories might be jeopardised in the event of these undertakings being merged or transferred or of these factories being transferred or leased; whereas consideration should therefore be given to the possibility of adjusting the original allocation of basic quotas by transferring them;

Whereas there should be strict provisions to govern such adjustments so that the system of allocating quotas is not jeopardised; whereas, to this end, the transactions referred to should be restricted to the territory of each Member State, the criterion for a merger should be the formation of a sugar-producing undertaking within the meaning of Regulation No 1009/67/EEC, and the criterion for a transfer should be the assignment of ownership or, where a factory is transferred or leased, the transfer of the production unit to the undertakings which have acquired or leased it;

Whereas it is essential that the re-allocation of basic quotas resulting from such adjustments should in no way prejudice the interests of beet and cane growers;

Whereas the sum of the adjusted basic quotas should not exceed the sum of the original basic quotas allocated to the undertakings in question;

HAS ADOPTED THIS REGULATION:

*Article 1*

1. For the purposes of this Regulation,

(a) 'merger of undertakings' means:

the consolidation into a single sugar-producing undertaking situated on the territory of a Member State of two or more sugar-producing undertakings situated on the territory of that same Member State;

(b) 'transfer of an undertaking' means:

transfer of the business of a sugar-producing undertaking situated on the territory of a Member State to one or more sugar-producing undertakings situated on the territory of that same Member State;

(c) 'transfer of a factory' means:

transfer of ownership of a production unit, including all the plant required to manufacture sugar, to one or more sugar-producing undertakings situated on the territory of the Member State in which the factory acquired is established, resulting in partial or total absorption of the production of the undertaking making the transfer;

(d) 'leasing of a factory' means:

a contract, concluded for a minimum of three consecutive marketing years, which the parties undertake not to terminate before the end of the third marketing year, to lease a production unit, including all the plant required to manufacture sugar, to an undertaking situated on the territory of the Member State in which the factory in question is established, provided that after the contract takes effect the undertaking leasing the factory in question can be regarded as a single sugar-producing undertaking as far as production is concerned.

<sup>1</sup> OJ No 308, 18.12.1967, p. 1.

2. A sugar-producing undertaking shall be regarded as being situated on the territory of a Member State if all its factories are established on the territory of that Member State.

#### Article 2

In the event of undertakings being amalgamated, the Member State concerned shall, without prejudice to the provisions of Council Regulation No 1027/67/EEC<sup>1</sup> of 21 December 1967 on the fixing of basic quotas for sugar, fix a basic quota for the undertaking formed as the result of the amalgamation which shall be equal to the sum of the basic quotas allocated to the undertakings concerned prior to their merger.

#### Article 3

In the event of a sugar-producing undertaking being transferred, the Member State concerned shall, without prejudice to the provisions of Regulation No 1027/67/EEC, either allocate the basic quota of the transferred undertaking to the undertaking which has acquired it or distribute the basic quota originally allocated to the transferred undertaking among the undertakings which have acquired it in proportion to the production absorbed by them.

#### Article 4

1. In the event of a factory owned by an undertaking which has been allocated a basic quota being transferred, the Member State concerned shall, without prejudice to the provisions of Regulation No 1027/67/EEC, either reduce the basic quota of the undertaking transferring ownership of the factory, the amount deducted being added to the basic quota of the undertaking acquiring that factory, or increase the basic quotas of the undertakings acquiring the factory concerned by distributing the amount deducted among these undertakings in proportion to the production absorbed by them.

2. In the event of a factory owned by an undertaking which has been allocated a basic quota being leased, the Member State concerned may reduce the basic quota of the undertaking leasing that factory and increase the basic quota of the undertaking taking it on lease.

If the lease is terminated before the end of the three marketing years referred to in Article 1 (1) (d), the adjustment made to basic quotas pursuant to the provisions of the preceding subparagraph shall be cancelled by the Member State with effect from the date on which the lease took effect. However, if the lease is terminated for reasons of *force majeure*, the Member State shall not be bound to cancel the adjustment.

#### Article 5

Measures taken to deal with basic quotas pursuant to this Regulation shall not be put into effect unless the interests of beet and cane growers in the production areas concerned are protected.

#### Article 6

The measures referred to in Article 5 shall, in the event of merger, leasing or transfer taking place:

- (a) between 1 July and 31 January of the following calendar year, be effective for the current marketing year;
- (b) between 1 February and 30 June of any one year, be effective for the following marketing year.

#### Article 7

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 Brussels, 26 November 1968.

For the Council

The President

G. SEDATI

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<sup>1</sup> OJ No 313, 22.12.1967, p. 2.