

REGULATION (EEC) No 3331/74 OF THE COUNCIL

of 19 December 1974

on the allocation and alteration of the basic quotas for sugar

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 3330/74 ⁽¹⁾ of 19 December 1974 on the common organization of the market in sugar, and in particular Article 24 (3) 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 Economic and Social Committee;

Whereas Article 24 (3) of Regulation (EEC) No 3330/74 lays down that the Council should adopt general rules for the application of this Article and any derogations therefrom;

Whereas it should be provided that, where an undertaking has had transferred to it in whole or in part the basic quota of another undertaking, account should be taken, in allocating the basic quota of the undertaking benefiting from this transfer, of the other undertaking's production prior to the transfer, during the 1968/69 to 1972/73 marketing years;

Whereas, in order to take account of any changes in the structure of the sugar industry or beet-growing sector, Member States should be enabled to reduce the basic quota of an undertaking by a quantity not exceeding, for the whole period from 1 July 1975 to 30 June 1980, 5% of the basic quota originally allocated; whereas, moreover, in view of its special situation in this sector, the Republic of Italy may also alter the basic quotas of the undertakings situated within its territory on the basis of restructuring plans submitted to the Commission for its opinion;

Whereas the object of the original allocation of basic quotas for individual undertakings might be jeopardized in the event of the merger or transfer of undertakings, the transfer by an undertaking of one of its factories or the closure of an undertaking; whereas, therefore, provision should be made for the alteration, by the Member States, of the basic quota of the undertakings concerned;

Whereas it is essential that alterations in the basic quotas originally fixed prevented from damaging the interests of the beet or cane growers concerned;

Whereas it is advisable that, before they are taken, measures affecting the basic quotas contemplated by a Member State in view of the maximum reduction of 5%, the merger or transfer of undertakings, the transfer of factories and the closure of an undertaking be communicated to the Commission and, where appropriate, be examined in conjunction with the other Member States and form the subject of a decision in accordance with the procedure laid down in Article 36 of Regulation (EEC) No 3330/74;

Whereas Regulation No 1027/67/EEC ⁽²⁾ and Regulation (EEC) No 1898/68 ⁽³⁾ should be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

For the allocation of the basic quota of an undertaking which, pursuant to Regulation (EEC) No 1898/68, has had transferred to it, in whole or in part, permanently or temporarily, the basic quota of another undertaking, the production of the undertaking whose basic quota has been transferred in whole or in part, up to the date on which the transfer took effect and during the 1968/69 to 1972/73 mar-

⁽¹⁾ See page 1 of this Official Journal.

⁽²⁾ OJ No 313, 22. 12. 1967, p. 2.

⁽³⁾ OJ No L 289, 29. 11. 1968, p. 2.

keting years, shall be regarded as part of the production of the undertaking to which the quota was transferred.

Article 2

1. Notwithstanding the first, second and third subparagraphs of Article 24 (2) of Regulation (EEC) No 3330/74, Member States may reduce the basic quota of each undertaking by a total amount which does not exceed, for the whole period from 1 July 1975 to 30 June 1980, 5% of the original basic quota allocated to each of them for the 1975/76 marketing year.

Member States shall allocate the quantity deducted to one or more other undertakings.

2. Notwithstanding the first, second and third subparagraphs of Article 24 (2) of Regulation (EEC) No 3330/74 and the preceding paragraph, the Republic of Italy may alter the basic quotas of undertakings within its territory in so far as is necessary for the implementation of restructuring plans for the beet and sugar sectors. These plans shall be submitted to the Commission for its opinion before 1 July 1978.

Article 3

Member States shall make due allowance for the interests of beet and cane growers when allocating the basic quota to an undertaking which has more than one factory.

Article 4

1. In the event of the merger or transfer of undertakings, the transfer of factories or the closure of an undertaking the basic quotas shall be altered as follows:

- (a) in the event of the merger of undertakings, the basic quota of the resulting undertaking shall be fixed by the Member State at a quantity equal to the sum of the basic quotas allocated to the undertakings concerned prior to their merger;
- (b) in the event of the transfer of an undertaking, the Member State shall allocate the basic quota of the transferred undertaking to the transferee undertaking; if there is more than one transferee undertaking or if, in the event of the transfer of

an undertaking, some of the beet growers join an undertaking other than the transferee, the allocation may be made on the basis of the production absorbed;

- (c) in the event of the transfer of a factory, the Member State shall reduce the basic quota of the undertaking transferring ownership of the factory and shall increase the basic quota of the undertaking or undertakings acquiring it by the quantity deducted in proportion to the production absorbed;
- (d) where an undertaking ceases to operate in circumstances other than those referred to under (a), (b) and (c), the Member State may allocate its basic quota to one or more undertakings in proportion to the production absorbed.

2. Measures in respect of basic quotas may be taken pursuant to paragraph 1 only in so far as:

- (a) the interests of the beet or cane growers concerned are protected, and
- (b) the Member State concerned considers that they are such as to improve the structure of the beet and cane production and the sugar manufacturing sectors.

3. Where a lease for a factory within the meaning of Regulation (EEC) No 1898/68 is effective during the 1974/75 marketing year, the Member State concerned may authorize the undertakings in question, at their request, to extend the lease until 30 June 1980. In such a case the Member State may transfer the quota to the undertaking which holds the lease.

Article 5

For the purposes of this Regulation:

- (a) 'merger of undertakings' means the consolidation into a single undertaking of two or more undertakings, each with a basic quota;
- (b) 'transfer of an undertaking' means transfer of the business of an undertaking with a basic quota to one or more undertakings;
- (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

undertakings, resulting in partial or total absorption of the production of the undertaking making the transfer.

Article 6

The measures referred to in Article 4 shall take effect when the merger, transfer, or closure, as the case may be, occurs:

- (a) between 1 July and 31 January of the following year, for the marketing year concurrent with that period;
- (b) between 1 February and 30 June of one and the same year, for the marketing year following that period.

Article 7

1. Member States shall allocate the basic quota referred to in Article 24 (1) of Regulation (EEC) No 3330/74 before 1 March 1975.

2. Where Member States apply Article 2 (1) they shall allocate the altered quota before 1 March with a view to applying it in the following marketing year. For the 1975/76 marketing year, the decision to apply Article 2 (1) must be taken before 15 March 1975.

Article 8

1. Measures affecting the basic quotas, which are contemplated by a Member State pursuant to Article 2 (1) and Article 4, can only be taken after four weeks, counting from the time limits for communicating the planned measures as laid down in Article 9 (1) (b) and (c) and (2) of that Article.

2. The Commission may submit comments to the Member State concerned within the period stipulated in paragraph 1.

3. If a Member State decides not to take account of these comments, it shall forthwith communicate this fact to the Commission. In that event, the measures referred to in paragraph 1 may only be taken after another period of four weeks counting from the date on which this communication was made. Within this period, it may be decided in accordance with the procedure laid down in Article 36 of Regulation (EEC) No 3330/74 that the Member State must amend the planned measures or abandon them.

Article 9

1. For the purpose of implementing this Regulation, Member States shall communicate to the Commission:

- (a) before 10 March 1975, a list of the basic quotas allocated pursuant to Article 24 (1) of Regulation (EEC) No 3330/74;
- (b) before 25 March 1975, the basic quotas which they contemplate altering pursuant to Article 2 (1);
- (c) before 15 March 1975, the basic quotas which they contemplate altering pursuant to Article 2 (1), with a view to applying them in the following marketing year.

2. Where they apply Article 4, Member States shall communicate to the Commission not later than 10 days following the expiry of the time limits specified in Article 7 the basic quotas which they contemplate altering.

Article 10

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

Regulation No 1027/67/EEC and Regulation (EEC) No 1898/68 shall be repealed with effect from 30 June 1975.

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

Done at Brussels, 19 December 1974.

For the Council

The President

J. P. FOURCADE