Commission Regulation (EC) No 638/2009 of 22 July 2009 amending Regulation (EC) No 1145/2008 laying down detailed rules for implementing Council Regulation (EC) No 637/2008 as regards the national restructuring programmes for the cotton sector

COMMISSION REGULATION (EC) No 638/2009

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 637/2008 of 23 June 2008 amending Regulation (EC) No 1782/2003 and establishing national restructuring programmes for the cotton sector[(1)], and in particular Article 9 thereof,

Whereas:

(1) The second subparagraph of Article 4(1) of Regulation (EC) No 637/2008 as amended by Regulation (EC) No 472/2009[(2)] introduces the possibility for Member States to submit a single draft modified restructuring programme for duration of eight years. It is necessary to adjust the implementing rules to this possibility.

(2) In view of the possible prolongation of the length of the programmes, the maximum percentage which may be paid in the form of advances must be increased. The conditions for release of the securities linked to these advances need to be specified, and it must be clarified that securities are not required for advances paid after full completion of the relevant tasks.

(3) For reasons of non-discriminatory treatment of ginners, it is necessary that the controls referred to in the second subparagraph of Article 7(1) of Commission Regulation (EC) No 1145/2008[(3)] cover all the measures listed in Article 7(1) of Regulation (EC) No 637/2008.

(4) Furthermore, the Member States responsibility to verify respect of the commitment not to use the production site for the ginning of cotton during a period of ten years from the moment of approval of the application for dismantling should be specified.

(5) With a view to optimising the effects of the restructuring programmes, it is necessary to provide Member States with additional flexibility in setting the amount of aid for dismantling per tonne of unginned cotton, which takes into account the heterogeneity of the ginning industry, while in any case avoiding overcompensation.

(6) Regulation (EC) No 1145/2008 should therefore be amended accordingly.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 638/2009. (See end of Document for details)*

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1145/2008 is amended as follows:

1. Article 6 is amended as follows:

(a) Paragraph 2 is replaced by the following:

2. For measures referred to in Article 7(1), points (a), (b), (d), and (e) of Regulation (EC) No 637/2008, Member States may pay the beneficiary one or more advances. The combined level of all advances shall not be higher than 87,5 % of the eligible expenditure.

The payment of an advance shall be subject to the lodging of a security of an amount equal to 120 % of the amount of the advance concerned.

When the conditions for the completion of a measure have been fulfilled, and when the controls referred to in the second and third subparagraphs of Article 7(1) have been carried out, securities shall be released and any additional payments shall not be subject to the lodging of a security.;

(b) Paragraph 3 is replaced by the following:

3. All payments referred to in paragraphs 1 and 2 that relate to a particular application shall be made at the latest:

a by 30 June of the fourth year following the year of the deadline for submission of the draft four-year restructuring programmes as laid down in the first subparagraph of Article 4(1) of Regulation (EC) No 637/2008;

b by 30 June of the eight year following the year of the deadline for submission of the draft eight-year restructuring programmes as laid down in the second subparagraph of Article 4(1) of Regulation (EC) No 637/2008.

Payments in the first year of the first programming period shall be made from 16 October 2009.

2. Article 7(1) is amended as follows:

(a) The second subparagraph is replaced by the following:

For the measures referred to in Article 7(1), points (a), (b), (d) and (e) of Regulation (EC) No 637/2008, the Member States shall inspect on the spot each factory, production site and beneficiary receiving support under the restructuring programme before a final payment is made, to check that all conditions for obtaining the aid have been met and the measures referred to in Article 7(1), points (a), (b), (d) and (e) of that Regulation have been completed.

(b) The following fourth subparagraph is added: