Commission Regulation (EC) No 707/2008 of 24 July 2008 amending Regulation (EC) No 952/2006 laying down detailed rules for the application of Council Regulation (EC) No 318/2006 as regards the management of the Community market in sugar and the quota system

COMMISSION REGULATION (EC) No 707/2008

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amending Regulation (EC) No 952/2006 laying down detailed rules for the application of Council Regulation (EC) No 318/2006 as regards the management of the Community market in sugar and the quota system

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector[(1)], and in particular Article 40 thereof,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)[(2)], in particular Article 50(1), in conjunction with Article 4 thereof,

Whereas:

(1) It may occur that white sugar produced by a given undertaking during a given marketing year is further processed into white sugar with specific requirements. Pursuant to Article 3 of Commission Regulation (EC) No 952/2006[(3)], sugar production is expressed in the total quantity of white sugar produced by a given undertaking in a marketing year. In order to avoid double counting, it is necessary to exclude from that production white sugar resulting from further processing of white sugar.

(2) Article 3(3) of Regulation (EC) No 952/2006 provides for two methods to determine the sugar content of syrups depending on their status of intermediate or non-intermediate syrups. Considering that one of the methods is obsolete, it is appropriate to simplify by referring only to the other method based on the extractable sugar content. However in the specific case of syrups from invert sugar, it is necessary to refer to the High Performance Liquid Chromatography method which is the only one possible from a technical point of view. Finally, to reflect technical progress, it is appropriate to mention only the refractrometric method to determine the dry matter content. The modifications should apply from 1 October 2008 in order to ensure that legitimate expectations of sugar producers are respected.

(3) Article 6(3) of Regulation (EC) No 952/2006 defines the production of undertakings for the purposes of the common organisation of the markets in the sugar sector, in the particular case where one undertaking outsources production to another. That outsourced production is deemed to be the production of the principal under certain

conditions, including the case where the total sugar production of the processor and the principal is more than the sum of their quotas. That condition was adapted in the light of the preventive withdrawal decided for the marketing year 2006/2007 so that it concerns the sum of the preventive withdrawal thresholds of the processor and the principal instead of the sum of the quotas. Commission Regulation (EC) No 290/2007 of 16 March 2007 establishing, for the 2007/2008 marketing year, the percentage provided for in Article 19 of Regulation (EC) No 318/2006[(4)] introduced a preventive withdrawal threshold for the marketing year 2007/2008. Council Regulation (EC) No 1260/2007[(5)], which has amended Regulation (EC) No 318/2006, includes a provision for the Commission to decide each year on a possible preventive withdrawal threshold. It is therefore necessary to modify the condition for the outsourcing set out in Article 6(3)(b) of Regulation (EC) No 952/2006 so that it concerns the sum of the preventive withdrawal thresholds of the processor and the principal instead of the sum of quotas.

(4) It is necessary to provide for mutual assistance between Member States to ensure effective controls.

(5) Preferential sugar imports from African, Caribbean and Pacific countries as well as from least developed countries into the Community will gradually increase as from 1 October 2009. It is expected that, by 2012, those imports will account for more than 25 % of Community's sugar consumption. The price information system should therefore include prices and quantities of imported raw and white sugar from those countries, currently available in the database of the Statistical Office of the European Communities

(6) The transmission of sugar prices for the price recording system takes place within a transitional system with quarterly transmissions from approved operators to the Commission. A final and computerised system of transmission has been elaborated. This system will enable a monthly transfer of prices from approved operators to the Member State followed by a transfer of the national price averages from Member States to the Commission. Provisions for the final system should replace the provisions for the transitional system.

(7) As from 1 October 2008, Regulation (EC) No 1234/2007 will replace Regulation (EC) No 318/2006. Rather than transferring Annex II to Regulation (EC) No 318/2006 concerning the purchase terms for beet to the Single CMO Regulation, Article 50 of Regulation (EC) No 1234/2007 provides that the Commission lays down those rules in implementing rules. The rules currently contained in Annex II to Regulation (EC) No 318/2006 should therefore be added to Regulation (EC) No 952/2006.

(8) The Community stock at the end of each marketing year is important for the assessment of the sugar market situation in view of possible market management decisions, notably the withdrawal. In certain factories, the processing of sugar for the new marketing year starts in the summer and the new production increases the monthly end-stocks of sugar manufacturers. In order to know the accurate Community stock at the end of the marketing year, it is necessary that approved sugar manufacturers and Member States communicate for the months of July, August and September the part of their end-stocks which results from the production of the following marketing year.

(9) Article 18(1) of Regulation (EC) No 318/2006 provides that an aid for the private storage of white sugar may be granted to sugar manufacturers who are allocated a quota, on the basis of the market price trend reflected by the recorded market prices. In order to implement the aid scheme quickly and when required, detailed rules for the application of the private storage scheme in the marketing year 2007/2008 should be added to Regulation (EC) No 952/2006.

(10) The aid for the private storage of white sugar should be determined by a tendering procedure in order to make the most efficient possible use of the resources available and to increase transparency and competition among manufacturers.

(11) The mandatory storage period is limited to 31 October 2008. Therefore tenders should not be lodged after 31 July 2008 to avoid an aid for a storage period shorter than three months which is considered insufficient to have an effect on the market prices.

(12) A tendering procedure should be provided when average Community prices for white sugar are below the reference price and are likely to remain at that level. It is appropriate to determine a threshold for market price below which a private storage aid is considered to become necessary. The threshold for the average Community price should be set at 85 % of the reference price.

(13) The restructuring process of the sugar industry in the Community has created regional differentiation with surplus regions (either due to local production or to imports) and deficit regions. The surplus regions are expected to be subject to downward pressure on prices at producers' level due to the excess of the local supply over the local demand. By contrast, the deficit regions are expected to enjoy firmer prices at producers' level due to the scarcity of the local supply compared to local demand. The average Community price will not fully reflect the price drop in certain Member States. It is therefore necessary to provide for an opening of the tendering procedure limited to the Member States where the national average prices fall below 80 % of the reference price.

(14) It is necessary to specify the requirements for the white sugar eligible to private storage aid.

(15) Tenders should contain all the information necessary to assess them, and communications between Member States and the Commission should be provided for.

(16) On the basis of the tenders received, a maximum aid may be fixed. However situations may arise in which none of the tenders received may be accepted.

(17) The information needed to establish the contract of storage should be specified as well as the starting and ending dates of the contractual storage period and the contracting obligations of the sugar manufacturer.

(18) A security should ensure that the quantities offered and possibly accepted are stored pursuant to the conditions set out in the present Regulation. Therefore, provisions should be adopted for the release and the forfeiting of the security lodged in accordance with Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products[6].

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 707/2008. (See end of Document for details)*

(19) In the light of the evolution of the market situation for the ongoing marketing year and of the forecasts for the following marketing year, the Commission may give the possibility to the contracting parties to dispose of the sugar under contracts before the end of the contractual storage period.

(20) In order to ensure that the scheme is properly administered, it is necessary to indicate the conditions in which an advance payment may be granted, the adjustment of the aid in cases where the contractual quantity is not entirely respected, the checks of compliance with entitlement to the aid, the possible sanctions and the information to be notified to the Commission by the Member States.

(21) The allocation of the maximum quantity of 600 000 tonnes for intervention buying fixed in Article 18(2) of Regulation (EC) No 318/2006 should be adapted for the marketing year 2007/2008 to take into account changes in quotas per Member State as well as the accession of Bulgaria and Romania.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 952/2006 is amended as follows:

1. Article 1 is replaced by the following:

Article 1

This Regulation lays down detailed rules for the application of Regulation (EC) No 318/2006, as regards in particular the determination of production, approval of manufacturers and refiners, the price and quota system, the conditions for buying sugar into intervention and selling sugar from intervention and the private storage for the marketing year 2007/2008.;

2. Article 3 is amended as follows:

(a) paragraph 2 is amended as follows:

(i) points (a) and (b) are replaced by the following:

(a) quantities of white sugar produced from white sugar, raw sugar or syrups which were not produced in the undertaking which manufactured the white sugar;

(b) quantities of white sugar produced from white sugar, raw sugar, syrups or sugar sweepings which were not produced during the marketing year in which the white sugar was manufactured;;

(ii) point (e) is replaced by the following:

(e) quantities of white or raw sugar processed into white sugar during the marketing year in question by the undertaking which produced them;

(b) in paragraph 3, points (d) and (e) are replaced by the following:

(d) in the case of syrups on the basis of extractable sugar content determined in accordance with paragraphs 5 and 6;

(e) in the case of syrups from invert sugar on the basis on sugar content as determined by the High Performance Liquid Chromatography method.;

(c) paragraph 5 is replaced by the following:

5. The percentage purity of syrups shall be calculated by dividing the total sugar content by the dry matter content and multiplying the result by 100. Dry matter content shall be determined by refractometry.;

(d) the following paragraphs are added:

6. The extractable sugar content shall be calculated by subtracting the difference between the dry matter content and the degree of polarisation of that syrup, multiplied by 1,70, from the degree of polarisation of the syrup in question.

However, the extractable sugar content can be established, for an entire marketing year, on the basis of the real yield in syrups.;

3. in Article 6(3), point (b) is replaced by the following:

(b) the total sugar production of the processor and of the principal is more than the sum of their quotas; or

(i) for the marketing year 2006/2007, the sum of the thresholds fixed for them in accordance with Article 3(2) of Commission Regulation (EC) No 493/2006[(7)];

(ii) for the marketing year 2007/2008, the sum of the thresholds fixed for them in accordance with Article 1(2) of Commission Regulation (EC) No 290/2007[(8)];

(iii) from the marketing year 2008/2009, the sum of the thresholds fixed for them in accordance with Article 19(2) of Regulation (EC) No 318/2006 or where applicable with Article 19a(1) of that Regulation.

4. in Article 10, the following paragraph is added:

6. The Member States shall assist one another to ensure effective controls, and to ensure the check on the authenticity of documents submitted and/or the accuracy of the data exchanged.;

5. after Article 14, the following Article 14a is inserted:

Article 14a

Additional information

In addition to the prices collected at Community level in accordance with Article 14 of this Regulation, the Commission shall also inform the Management Committee