Council Regulation (EC) No 1260/2007 of 9 October 2007 amending Regulation (EC) No 318/2006 on the common organisation of the markets in the sugar sector

COUNCIL REGULATION (EC) No 1260/2007

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amending Regulation (EC) No 318/2006 on the common organisation of the markets in the sugar sector

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) In order to maintain the structural balance of the market, the Commission may decide to withdraw sugar from the market. In the case where a preventive withdrawal is decided, it is necessary to limit the scope of the obligation provided for in Article 6(5) of Council Regulation (EC) No 318/2006[(1)], so as to avoid imposing on sugar undertakings an obligation to pay the minimum price for quantities of beet corresponding to their entire quota, including those quantities which may be produced beyond the withdrawal threshold.

(2) In accordance with Article 10(2) of Regulation (EC) No 318/2006, the Commission is to decide by the end of February 2010 on carrying out a linear reduction of national and regional quotas, with a view to adjusting these quotas to a sustainable level after the expiry of the restructuring scheme established by Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community[(2)].
In order to encourage an increased participation in that restructuring scheme, it is considered appropriate to reduce the percentage referred to in Article 10(2) of Regulation (EC) No 318/2006, taking into account the total renunciation of quota per Member State under the restructuring scheme, as well as to modulate this percentage for each undertaking according to its individual restructuring effort.

(3) The outermost regions referred to in Article 299(2) of the Treaty do not fall under the scope of Regulation (EC) No 320/2006. Consequently those regions should be excluded from the final cut by which the Commission is entitled to adjust quotas after the expiry of the restructuring scheme.

(4) Article 4a of Regulation (EC) No 320/2006 provides the possibility for growers of beet and cane intended for quota production to submit a direct application for restructuring aid provided that they cease to deliver sugar to the undertakings to which they were

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 1260/2007. (See end of Document for details)*

bound by delivery contracts in the previous marketing year. As a result of the acceptance of such applications, Member States are to reduce the quota of the undertakings concerned within the limit of the 10 % referred to in the second indent of Article 11(1) of Regulation (EC) No 318/2006. It is in this context necessary to amend that Article, so as to allow for the definitive reduction of quotas allocated to the undertakings.

(5) A sound management of sugar in public intervention means that sugar should be resold on the market as soon as market trends allow for it in order to avoid a long storage period with risks of deterioration of quality. It is considered appropriate to allow the possibility of resale as industrial sugar.

(6) Article 19 of Regulation (EC) No 318/2006 provides the possibility to withdraw sugar from the market where it is necessary in order to maintain the structural level of the markets at a price level close to the reference price. The application of this measure is currently based on a percentage, common to all Member States and applicable to all production under quota. Recent experience has shown that such a linear application may be counterproductive, since producers are encouraged to produce above their contractual needs as a precaution against a possible compulsory storage of the quantities withdrawn.
It is therefore considered appropriate to adapt the withdrawal instrument by replacing the linear percentage by a threshold, to be determined by applying a coefficient to the quota allocated to each undertaking, above which the quantities produced under quota should be withdrawn. In this way, undertakings should be able to avoid the consequences of a withdrawal by adjusting their production so that it does not exceed the level of the threshold.

(7) It is considered that the objective of withdrawal will be better achieved if the withdrawal coefficient can be preventively fixed by mid March of the previous marketing year, since this will enable beet growers to adapt their sowings to the forecast balance sheet. Regulation (EC) No 320/2006 opens the possibility of renouncing quotas against payment of restructuring aid in two steps. The amounts that may be renounced in the second step cannot be taken into account for the fixing of the coefficient for the preventive withdrawal in respect of the marketing year 2008/2009 because the respective figures will only be known after 16 March 2008 which is the deadline for the fixing of the coefficient. It should therefore be clarified that that coefficient needs to be applied to the quotas still available at that moment.

(8) In order to take into account updated market data on production, provision should be made for the preventive withdrawal coefficient fixed in March to be adjusted if necessary for the marketing year concerned.

(9) Article 19(3) of Regulation (EC) No 318/2006 provides that withdrawn quantities which are not marketed as industrial sugar or isoglucose are to be treated as the first quantities produced under quota for the following marketing year. This rule could mean that undertakings wishing to participate in the restructuring scheme in the 2008/2009 and 2009/2010 marketing years are prevented from benefiting fully from that scheme. In order to avoid hampering the restructuring of the sugar sector, it is considered necessary to provide for an exemption, at the request of the undertaking, from the withdrawal in the

2007/2008 marketing year or from a possible withdrawal in the 2008/2009 marketing year for those undertakings which in the marketing year of withdrawal concerned have successfully applied for restructuring aid under Regulation (EC) No 320/2006 and which as a result are going to renounce their total quota in the following marketing year.

(10) In order to encourage an increased participation in the restructuring scheme, it is considered appropriate to provide for an increase of the coefficient in relation to the total renunciation of quota per Member State under the restructuring scheme.

(11) Import licences under certain preferential arrangements are to be issued only to full-time refiners within the limit of the traditional supply need provided for in Article 29 of Regulation (EC) No 318/2006. This prerogative should not be reduced in relation to the application of a withdrawal, considering that refiners do not have the same possibility as sugar producers to adapt their production to the withdrawal thresholds.

(12) Article 6 of Regulation (EC) No 318/2006 lays down rules applicable to interprofessional agreements. In accordance with paragraph 6 of that Article, agreements within the trade may derogate from some of these rules. The possibility of derogating from the obligation for sugar undertakings which have not signed pre-sowing contracts for a quantity equivalent to their quota sugar to pay the minimum price for all beet processed into sugar should be provided for, as was the case until the application of Regulation (EC) No 318/2006.

(13) Article 10(1) of Regulation (EC) No 318/2006 provides for a yearly adjustment of the national and regional quotas set out in Annex III to that Regulation, as a result of the application of different mechanisms through which the quotas allocated to individual undertakings are either increased or reduced. Article 10(1) of Regulation (EC) No 318/2006 also refers to Articles 14 and 19 of that Regulation, which concern respectively the carry forward of surplus sugar and the withdrawal of sugar from the market. However, the application of those Articles does not result in either an increase or a reduction of quota. The reference in question should therefore be deleted.

(14) Regulation (EC) No 318/2006 should therefore be amended accordingly.

(15) Account should be taken in this Regulation of the fact that the total quota for production of inulin syrup was renounced in the 2006/2007 marketing year under the restructuring scheme established by Regulation (EC) No 320/2006,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 318/2006 is hereby amended as follows:

1. in Article 6, paragraphs 5 and 6 shall be replaced by the following:

5. Sugar undertakings which have not signed pre-sowing delivery contracts at the minimum price for quota beet for a quantity of beet equivalent to the sugar for which they hold a quota, adjusted, as the case may be, by the coefficient for a preventive withdrawal fixed in accordance with the first subparagraph of Article 19(2), shall be required to pay at least the minimum price for quota beet for all the sugar beet they process into sugar.

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6 Subject to the approval of the Member State concerned, agreements within the trade may derogate from paragraphs 3, 4 and 5.;

2. Article 10 shall be replaced by the following:

Article 10

Quota management

1 In accordance with the procedure referred to in Article 39(2), the quotas set out in Annex III of this Regulation shall be adjusted by 30 April 2008 for the 2008/2009 marketing year and by the end of February 2009 and 2010 respectively for the 2009/2010 and 2010/2011 marketing years. The adjustments shall result from the application of Articles 8 and 9 of this Regulation, of paragraph 2 of this Article, and of Articles 3 and 4a(4) of Regulation (EC) No 320/2006.

2 Taking into account the results of the restructuring scheme provided for in Regulation (EC) No 320/2006, the Commission shall decide by the end of February 2010 at the latest, in accordance with the procedure referred to in Article 39(2) of this Regulation, the common percentage needed to reduce the existing quotas for sugar and isoglucose per Member State or region with a view to avoiding market imbalances in the marketing years as from the 2010/2011 marketing year. The Member States shall adjust the quota of each undertaking accordingly.

By way of derogation from the first subparagraph of this paragraph, for Member States for which the national quota has been reduced as a result of renunciations of quota in accordance with Articles 3 and 4a(4) of Regulation (EC) No 320/2006, the percentage shall be fixed, in accordance with the procedure referred to in Article 39(2) of this Regulation, by way of application of Annex VIII to this Regulation. Such Member States shall adjust, for each undertaking in their territory holding a quota, the percentage in accordance with Annex IX of this Regulation.

The first and second subparagraphs of this paragraph shall not apply to the outermost regions referred to in Article 299(2) of the Treaty.;

3. Article 11 shall be amended as follows:

(a) the title shall be replaced by the following:

Article 11;

National quota reallocation and reduction of quotas

(b) paragraph 1 shall be replaced by the following:

1. A Member State may reduce the sugar or isoglucose quota allocated to an undertaking established on its territory by up to 10 % for the marketing year 2008/2009 and following, whilst respecting the freedom of undertakings to participate in the mechanisms established by Regulation (EC) No 320/2006. In doing so, the Member States shall apply objective and non discriminatory criteria.;

(c) the following paragraph shall be added:

4. By way of derogation from paragraph 3 of this Article, where Article 4a of Regulation (EC) No 320/2006 is applied, Member States shall adjust the sugar quota allocated to the undertaking concerned by applying the reduction defined under paragraph 4 of that Article, within the limit of the percentage fixed in paragraph 1 of this Article.;

4. in Article 15(1), point (c) shall be replaced by the following:

(c) sugar and isoglucose withdrawn from the market in accordance with Articles 19 and 19a and for which the obligations provided for in Article 19(3) are not met.;

5. in point a of Article 18(3), the following indent shall be added:

or
— for industrial use referred to in Article 13.;

6. Article 19 shall be replaced by the following:

Article 19

Withdrawal of sugar

1 In order to preserve the structural balance of the market at a price level which is close to the reference price, taking into account the commitments of the Community resulting from agreements concluded in accordance with Article 300 of the Treaty, the Commission may decide to withdraw from the market, for a given marketing year, those quantities of sugar or isoglucose produced under quotas which exceed the threshold calculated in accordance with paragraph 2 of this Article.

2 The withdrawal threshold referred to in paragraph 1 of this Article shall be calculated, for each undertaking holding a quota, by multiplying its quota by a coefficient, which shall be fixed in accordance with the procedure referred to in Article 39(2) by 16 March at the latest of the previous marketing year, on the basis of expected market trends. For the marketing year 2008/2009, that coefficient shall be applied to the quota after renunciations in accordance with Regulation (EC) No 320/2006 granted on 15 March 2008 at the latest.

On the basis of updated market trends, the Commission, in accordance with the procedure referred to in Article 39(2), may decide by 31 October of the marketing year concerned either to adjust or, in the case where no such decision has been taken in accordance with the first subparagraph of this paragraph, to fix a coefficient.

3 Each undertaking provided with a quota shall store at its own expense until the beginning of the following marketing year the sugar produced under quota beyond the threshold calculated in accordance with paragraph 2. The sugar or isoglucose quantities withdrawn during a marketing year shall be treated as the first quantities produced under quota for the following marketing year.

By way of derogation from the first subparagraph of this paragraph, taking into account the expected sugar market trends, it may be decided, in accordance with the procedure referred to in Article 39(2), to consider, for the current and/or the following marketing year, all or part of the withdrawn sugar or isoglucose as: