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

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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 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector[(1)], and in particular the second subparagraph of Article 19(3), Article 40(2)(d)(v) and Article 42 thereof,

Whereas:

(1) Article 19(1) of Regulation (EC) No 318/2006 lays down that a percentage, common to all Member States, of sugar and isoglucose may be withdrawn from the market in order to preserve the structural balance of the market at a price level which is close to the reference price.

(2) The forecast supply balance for the 2007/2008 marketing year indicates a surplus on the Community market, resulting in particular from a smaller than expected abandonment of quotas under Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community and amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy[(2)]. This surplus, which may amount to almost four million tonnes of sugar and isoglucose, is likely to cause a significant decrease in the Community market price during the 2007/2008 marketing year.

(3) Consequently, a withdrawal percentage should be established in application of Article 19(1) of Regulation (EC) No 318/2006 in order to preserve the structural balance of the market.

(4) However, applying the withdrawal as laid down by Article 19 of Regulation (EC) No 318/2006 does not provide an incentive to producers to reduce production, as the withdrawal percentage is applied in a linear fashion to all quantities produced under quota, without taking into account attempts by some undertakings to adapt their production. The withdrawal instrument may therefore be considered insufficient insofar as it does not make it possible to prevent the creation of a surplus on the market. Article 19 does not prevent surplus production; it simply makes it possible to withdraw the surplus sugar already produced. This results in costs that could be avoided if the surplus production were to be prevented at an earlier stage.

(5) In order to make the withdrawal instrument more effective by creating an incentive for producers to reduce production, the Commission intends to propose to the Council an amendment to Regulation (EC) No 318/2006 that would introduce a threshold above which quantities produced under quota by each undertaking would be withdrawn. In other words, undertakings whose production is below the threshold will be exempt from the withdrawal requirement, reflecting the fact that they contributed less to the surplus. In this way, undertakings would be able to adapt their production and decide whether or not to produce in excess of the threshold.

(6) For the threshold for applying the withdrawal percentage to have a real effect on production, the scope of the obligation provided for in Article 6(5) of Regulation (EC) No 318/2006 should be limited to avoid sugar undertakings being obliged to pay the minimum price for quantities of beet corresponding to their entire quota, including the quantities for which no delivery contracts have been concluded.

(7) However, it will not be possible to adjust the withdrawal instrument in time for it to have a preventative effect on production during the 2007/2008 marketing year. Given that the forecasts are indicating a particularly large surplus for this marketing year on account of the poor functioning of the instrument for the restructuring of the sugar industry, it is considered necessary to resort to Article 42 of Regulation (EC) No 318/2006 in order to introduce, as a matter of urgency, a preventative measure consisting in the introduction of a threshold for applying the withdrawal percentage and consequently limiting the withdrawal requirement for those undertakings that do not contribute to the surplus. The threshold should be fixed at a level that makes it possible to prevent a significant quantity of sugar from being produced, in other words a quantity comparable to that which would otherwise have been withdrawn under Article 19 of Regulation (EC) No 318/2006.

(8) In the same context, account should be taken of the fact that the constraints associated with the preventative measure could have serious economic consequences for undertakings in Member States which have made particular efforts under the restructuring scheme established by Regulation (EC) No 320/2006. This effect would be contrary to the very objective of this scheme and of the common organisation of the markets in the sugar sector, which is to guarantee the viability and competitiveness of this sector. It is therefore necessary to provide for an exemption from applying the withdrawal percentage for the Member States in proportion to the percentage of the national quota which has been released under the above restructuring scheme.

(9) In order for it to be fully effective, the measure must be adopted before beet sowing gets into full swing, thereby enabling producers and manufacturers to plan and manage production for the 2007/2008 marketing year as best as possible.

(10) At the same time, in order to make allowances for the uncertainty of the forecasts concerning production in particular, provision should be made for the withdrawal percentage to be adapted if necessary when final figures are available for the 2007/2008 marketing year. If the adapted percentage is greater than the percentage initially established by this Regulation, the difference must be applied to the entire production

under quota, since the aim of the measure at that stage will no longer be to obtain a preventative effect but to manage the market according to a surplus that has occurred.

(11) In order to facilitate the supply of sugar and/or isoglucose for the manufacture of the products referred to in Article 13(2) of Regulation (EC) No 318/2006, the quantity withdrawn should be regarded as surplus sugar or isoglucose for the 2007/2008 marketing year available to become industrial sugar or isoglucose.

(12) In accordance with the second subparagraph of Article 19(1) of Regulation (EC) No 318/2006, the traditional supply need for refining as white sugar should be reduced by the same percentage as that established for the withdrawal. In the event that the withdrawal percentage is adapted, the reduction of the traditional supply need must also be adjusted.

(13) The Management Committee for Sugar has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1 For the 2007/2008 marketing year, the percentage provided for in Article 19(1) of Regulation (EC) No 318/2006 shall be 13,5 %.

2 By way of derogation from paragraph 1:

a the percentage laid down in that paragraph shall not apply to undertakings whose production is less than 86,5 % of their quota for the 2007/2008 marketing year;

b for undertakings that produce a quantity equal to or higher than 86,5 % of their quota for the 2007/2008 marketing year, the quantities produced over the 86,5 % threshold shall be withdrawn;

c the percentage laid down in paragraph 1 shall not apply to quantities produced in the Member States in which at least 50 % of the national sugar quota has been released from 1 July 2006 as a result of quotas being renounced under Article 3 of Regulation (EC) No 320/2006.

For the Member States in which at least 50 % of the national sugar quota has been released from 1 July 2006 as a result of quotas being renounced under Article 3 of Regulation (EC) No 320/2006, the withdrawal percentage provided for in the first paragraph shall be reduced in proportion to the quotas released.

The percentage applicable under this point shall be as laid down in the Annex hereto.

3 The percentage laid down in the first paragraph may be adapted up until 31 October 2007 at the latest. If the second percentage is higher than the first percentage, the difference shall be applied to the entire production under quota.

4 The quantities withdrawn in accordance with paragraphs 2(b) and 3 shall be considered to be surplus sugar or surplus isoglucose for the 2007/2008 marketing year available to become industrial sugar or industrial isoglucose.

5 The obligation referred to in Article 6(5) of Regulation (EC) No 318/2006 to pay at least the minimum price shall apply only to the quantities of beet produced under quota after the application of paragraphs 1 and 2.