Commission Regulation (EC) No 968/2006 of 27 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 320/2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community

COMMISSION REGULATION (EC) No 968/2006

of 27 June 2006

laying down detailed rules for the implementation of Council Regulation (EC) No 320/2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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[(1)], and in particular Article 12 thereof,

Whereas:

(1) Regulation (EC) No 320/2006 provides for a restructuring aid for those undertakings which decide to give up their quota production, with part of the aid reserved for beet, cane and chicory growers as well as machinery contractors, in order to compensate for losses resulting from the closure of sugar factories. It also provides for an aid for diversification to Member States for diversification measures in the regions concerned by factory closures, for a transitional aid to full-time refiners and for a transitional aid to certain Member States.

(2) Before submitting an application for restructuring aid, the undertakings are to consult sugar beet, cane and chicory growers, in accordance with Article 3(2) of Regulation (EC) No 320/2006. In order to ensure that growers and other interested parties are offered a fair opportunity to give their views, detailed rules for the consultation process should be established.

(3) Restructuring aid is granted in respect of the marketing year for which the quota is renounced. Hence, in the case where sugar, isoglucose or inulin syrup is withdrawn or carried forward from the previous marketing year and becomes the first quota production of the marketing year for which an undertaking plans to renounce its quota, the undertaking should be allowed to make one single application for the renunciation of the quota in two successive marketing years, receiving for each part of the quota the amount of restructuring aid applicable to the marketing year for which the quota is renounced.

(4) In relation to the renunciation of quotas, Article 3 of Regulation (EC) No 320/2006 sets out the options of full or partial dismantling of the production facilities, which give rise to different amounts of restructuring aid. While the conditions applicable to those two

options should take into account that a higher amount of restructuring aid is granted to full dismantling, because of the higher costs involved, it is considered appropriate to allow for the possibility to keep parts of the factory which are not part of the production line, if they can be used for other purposes foreseen in the restructuring plan, especially when such use creates employment. On the other hand, installations not directly linked to sugar production should be dismantled if there is no alternative use for them within a reasonable period of time and maintaining them would be harmful to the environment.

(5) In order to protect farmers and machinery contractors' interests, the undertakings should be required to pay them their share of the restructuring aid according to criteria established by the Member State and within a reasonable period of time after having received the first instalment of the restructuring aid.

(6) Because of the financial limits of the temporary restructuring fund, the granting of the aid should depend on the chronological order of the lodging of applications. It is thus necessary to establish the criteria for how this chronological order should be determined.

(7) The Member State's decision on the eligibility of an application for restructuring aid is based on its acceptance of the restructuring plan submitted together with the application. It is thus necessary to define the criteria and procedure for the acceptance of the restructuring plan, as well as for further amendments to such plan.

(8) In cases where, due to the financial limits of the temporary restructuring fund, the resources of the fund are momentarily insufficient to grant restructuring aid to an applicant whose application has been found eligible, the applicant should be allowed to withdraw his application within a certain period. In the absence of withdrawal, the application should remain valid with its original date of lodging and become an application for the following marketing year.

(9) The Commission should calculate the amount of aid for diversification and additional aid for diversification, as well as of the transitional aid to certain Member States and inform each Member State of the amount available. The Member States should inform the Commission about their national restructuring programmes, detailing the measures to be undertaken.

(10) In order to make it easier for full-time refiners who have lost certain benefits which they held under Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector[(2)] to adapt to the new situation following the entry into force of Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector[(3)], Regulation (EC) No 320/2006 introduces a transitional aid allocated in those Member States where refiners within the meaning of Regulation (EC) No 1260/2001 were established in the past. The Member States concerned should award the aid to the full-time refiners established on their territory on the basis of a business plan prepared by the undertaking concerned.

(11) In order to enable Member States to control the restructuring process, undertakings receiving an aid should submit annual progress reports. Member States should submit

progress reports about the restructuring plans of those undertakings, refiners' business plans as well as their national restructuring programmes to the Commission.

(12) Arrangements should be laid down for controls to be carried out by Member States in order to ensure in particular that the restructuring plan related to the granting of restructuring aid and the business plan related to the granting of aid to full-time refiners are being complied with.

(13) It is necessary to provide for penalties to be applied in the case where an undertaking does not comply with its obligations under the restructuring plan or the business plan.

(14) The Fund Committee has not delivered an opinion within the time-limit set by its chairman,

HAS ADOPTED THIS REGULATION:

CHAPTER I

INTRODUCTORY PROVISIONS

Article 1

Scope and definitions

1 This Regulation lays down detailed rules for the implementation of the measures provided for in Articles 3, 6, 7, 8 and 9 of Regulation (EC) No 320/2006 and financed by the restructuring fund established by Article 1 of that Regulation.

2 For the purposes of this Regulation, the definitions provided for in Article 2 of Regulation (EC) No 320/2006 shall apply.

The definition of ‘working day’ provided for in Article 2(2) of Council Regulation (EEC, Euratom) No 1182/71[(4)] shall also apply.

[[F1]3 For the purposes of this Regulation:

(i) ‘application’ shall mean an application by a sugar producing undertaking in accordance with Article 4 of Regulation (EC) No 320/2006;

(ii) ‘grower’s application’ shall mean an application submitted by a grower of sugar beet or cane in accordance with Article 4a of Regulation (EC) No 320/2006.**]**

Textual Amendments

F1 Inserted by Commission Regulation (EC) No 1264/2007 of 26 October 2007 amending Regulation (EC) No 968/2006 laying down detailed rules for the implementation of Council Regulation (EC) No 320/2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 968/2006. (See end of Document for details)*

CHAPTER II

CONDITIONS FOR GRANTING RESTRUCTURING AID

Article 2

Consultation in the framework of agreements within the trade

1 The consultation conducted in the framework of the relevant agreements within the trade as referred to in the second subparagraph of Article 3(2) of Regulation (EC) No 320/2006 shall be based on a detailed timetable and a draft restructuring plan drawn up by the undertaking concerned.

The relevant agreement with the trade shall be the one concluded for the marketing year in which the consultation takes place.

The representatives of the workers and other parties concerned by the restructuring plan but not taking part in the relevant agreement within the trade may be invited by the undertaking to take part in the consultation as observers.

2 The consultation shall involve all elements of the restructuring plan referred to in Article 4(3) of Regulation (EC) No 320/2006.

3 The invitation to the consultation shall be sent by the undertaking concerned. It shall be accompanied by the draft restructuring plan and a detailed agenda for the meeting to be held. A copy of the invitation and the accompanying documents shall be sent at the same time to the competent authority of the Member State.

[[F2]4 Unless an agreement can be found earlier, the consultation shall consist of at least two meetings and shall last for up to 20 days as from the day on which the invitation to the consultation was sent.

By way of derogation from the first subparagraph, for applications for restructuring aid in accordance with Article 4(1a) of Regulation (EC) No 320/2006, the consultation shall last for up to 10 days and consist of at least one meeting.**]**

5 The confirmation that the restructuring plan has been prepared in consultation, as referred to in Article 4(2)(b) of Regulation (EC) No 320/2006, shall be based on:

a the invitation sent by the undertaking concerned and received by the other parties;

b the signatures of the participants to the meetings or a statement of the eventual abstention from participation of any of the invited parties;

c the draft restructuring plan as amended by the undertaking concerned after the consultation, specifying the elements agreed by the parties, as well as the elements not agreed;

d if any, the position papers of the parties to the agreement within the trade, the opinion of the workers' representative and the opinions of the other invited parties.

6 For the 2006/2007 marketing year, Member States may take into account consultations conducted in the framework of the relevant agreements within the trade which took place before the entry into force of this Regulation, even if they do not comply with the requirements of this Regulation.

Textual Amendments

F2 Substituted by Commission Regulation (EC) No 1264/2007 of 26 October 2007 amending Regulation (EC) No 968/2006 laying down detailed rules for the implementation of Council Regulation (EC) No 320/2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community.

Article 3

Renunciation of quota

As from the marketing year for which the quota is renounced in accordance with Article 3 of Regulation (EC) No 320/2006, no production of sugar, isoglucose or inulin syrup and no sugar, isoglucose or inulin syrup carried forward or withdrawn from the previous marketing year may be deemed as a production under that quota as regards the factories concerned.

Article 4

Dismantling of production facilities

1 In the case of full dismantling referred to in Article 3(1)(a) of Regulation (EC) No 320/2006, the requirement to dismantle the production facilities shall concern:

a all facilities which are necessary to produce sugar, isoglucose or inulin syrup, as for example: facilities to store, analyse, wash and cut sugar beet, cane, cereals or chicory; all facilities which are necessary to extract and process or concentrate sugar from sugar beet or cane, starch from cereals, glucose from starch or inulin from chicory;

b the part of the facilities other than those referred to in point (a) which are directly related to the production of sugar, isoglucose or inulin syrup and necessary to deal with production under the quota renounced, even if it could be used in relation with the production of other products, such as: facilities for heating or processing water, or for producing energy; facilities to deal with sugar beet pulp or molasses; facilities for internal transport;

c all other facilities, such as packaging facilities, left unused and to be dismantled and removed for environmental reasons.

2 In the case of partial dismantling referred to in Article 3(1)(b) of Regulation (EC) No 320/2006, the requirement to dismantle the production facilities shall concern the facilities referred to in paragraph 1 of this Article that are not intended to be used for other production or other use of the factory site in accordance with the restructuring plan.

Article 5

Coherence between different sources of funding

The Member States shall ensure the coherence and the complementarity of measures or actions financed by the restructuring fund and by other Community funds at regional or national level, as well as the absence of duplication between them.