Commission Regulation (EC) No 967/2006 of 29 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 318/2006 as regards sugar production in excess of the quota

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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 Articles 13(2), 15(2) and 40(1)(c) and (2)(d) thereof,

Whereas:

(1) Under Article 12 of Regulation (EC) No 318/2006, production in excess of the quota may be used for the processing of certain products, carried forward to the next marketing year or used for the specific supply arrangements for the outermost regions, in accordance with Council Regulation (EC) No 247/2006 laying down specific measures for agriculture in the outermost regions of the Union[(2)], or exported within certain limits.

(2) Under Article 15 of Regulation (EC) No 318/2006, a surplus amount is to be levied on quantities of surplus sugar, surplus isoglucose and surplus inulin syrup not carried forward or exported, or used for the specific supply arrangements for the outermost regions, and on industrial sugar, industrial isoglucose and industrial inulin syrup for which no proof has been supplied, by a date to be determined, that it has been processed into one of the products referred to in Article 13(2) of that Regulation; and on quantities withdrawn from the market in accordance with Article 19 of that Regulation and for which the obligations provided for in Article 19(3) thereof are not met.

(3) The levy should be fixed at a high level in order to avoid the accumulation of quantities produced in excess of the quota and likely to disrupt the market. A fixed amount, equal to the level of full import duties on white sugar, would appear appropriate to this end.

(4) Certain provisions should be laid down for cases where sugar, isoglucose or inulin syrup in excess of the quota may be destroyed and/or become unrecoverable, and for cases of *force majeure* making it impossible to use the products as provided for in Article 12 of Regulation (EC) No 318/2006.

(5) Article 17 of Regulation (EC) No 318/2006 provides for approval of undertakings processing sugar, isoglucose or inulin syrup into one of the industrial products referred to in Article 13(2) of that Regulation. The content of the application for approval which processors must submit to the competent authorities of the Member States should be

specified. The commitments these undertakings must make in return for approval must be laid down, in particular the obligation to keep an up-to-date record of the quantities of raw materials entering, being processed in and leaving the undertaking in the form of processed products. To ensure that the arrangements for industrial sugar, industrial isoglucose and industrial inulin syrup operate correctly, provision must be made for the imposition of penalties on processors who do not meet their obligations or their commitments.

(6) Conditions should be laid down for the use of the industrial sugar, industrial isoglucose and industrial inulin syrup referred in Article 12(a) of Regulation (EC) No 318/2006 as regards, in particular, the contracts for deliveries of raw materials between manufacturers and processors, and the list of products referred to in that point should be drawn up in accordance with Article 13(2) of that Regulation, taking into account the experience gained as regards supplies of sugar to the chemicals and pharmaceutical industries.

(7) To make the control system more effective, the use of industrial sugar, industrial isoglucose and industrial inulin syrup should be restricted to a direct sale between an approved manufacturer and an approved processor.

(8) To facilitate the use of industrial sugar and access to this raw material by potential users, manufacturers should be allowed to replace a quantity of their industrial sugar with sugar produced by another manufacturer established, if necessary, in another Member State. However, this possibility should only be granted on condition that additional checks on the quantities delivered and actually used by industry are carried out correctly. The decision on whether to grant this possibility must be left to the discretion of the competent authorities of the Member States concerned.

(9) To ensure that the sugar, isoglucose or inulin syrup is properly used, financial penalties must be laid down for processors at a dissuasive level to avoid any risk of the raw materials being used for other purposes.

(10) Under Article 14(1) of Regulation (EC) No 318/2006, each undertaking may decide to carry forward all or part of its production in excess of its sugar quota, its isoglucose quota or its inulin syrup quota to be treated as part of the next marketing year's production. Since a sugar-producing undertaking may carry forward all of its production in excess of the quota, the beet growers concerned should be closely associated with the decision to carry forward by means of an agreement within the trade referred to in Article 6 of that Regulation.

(11) Isoglucose is produced on an ongoing basis throughout the year and is difficult to store. It should therefore be laid down that the decision to carry forward may be taken *a posteriori* by the isoglucose-producing undertakings.

(12) For the purposes of monitoring quantities and destinations, it should be laid down that the sugar used in the context of the specific supply arrangements for the outermost regions must be the object of a direct sale from the manufacturer to the undertaking in the outermost regions, in accordance with the rules laid down in Commission Regulation (EC) No 793/2006 of 12 April 2006 laying down certain detailed rules

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 967/2006. (See end of Document for details)*

for applying Council Regulation (EC) 247/2006 laying down specific measures for agriculture in the outermost regions of the Union[(3)]. The proper application of the two regimes requires close cooperation between the authorities of the Member State in which the sugar is produced who are responsible for managing surplus sugar and the authorities in the outermost regions who are responsible for managing the specific supply arrangements.

(13) Export must be carried out under an export licence without refund issued in accordance with Article 23 of Regulation (EC) No 318/2006 and, for sugar, under quotas to be opened by the Commission taking into account the Community's commitments under the World Trade Organisation. For administrative reasons, the export documents provided for in Commission Regulation (EC) No 1291/2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products[(4)] should be used as proof of export. Member States should carry out physical checks in accordance with the rules laid down in Commission Regulation (EC) No 2090/2002 laying down detailed rules for applying Council Regulation (EEC) No 386/90 as regards physical checks carried out when agricultural products qualifying for refunds are exported[(5)].

(14) For the sake of transparency and legal clarity, Commission Regulations (EEC) No 2670/81 laying down detailed implementing rules in respect of sugar production in excess of the quota[(6)], (EEC) No 65/82 laying down detailed rules for carrying forward sugar to the following marketing year[(7)] and (EC) No 1265/2001 laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards granting the production refund on certain sugar products used in the chemical industry[(8)] should be repealed with effect from 1 July 2006.

(15) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SCOPE AND DEFINITIONS

Article 1

Scope

This Regulation lays down the conditions for the use or carry-forward of quantities of sugar, isoglucose and inulin syrup produced in excess of the quota and the rules on the levy charged on the surplus in accordance with Chapter 3 of Title II of Regulation (EC) No 318/2006.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 967/2006. (See end of Document for details)*

Article 2

Definitions

For the purposes of this Regulation:

(a) ‘raw material’ means sugar, isoglucose or inulin syrup;

(b) ‘industrial raw material’ means industrial sugar, industrial isoglucose or industrial inulin syrup as referred to in Article 2(6) and (7) of Regulation (EC) No 318/2006;

(c) ‘manufacturer’ means an undertaking producing raw materials, approved in accordance with Article 17 of Regulation (EC) No 318/2006;

(d) ‘processor’ means an undertaking processing the raw material into one or more of the products referred to in the Annex, approved in accordance with Article 5 of this Regulation.

Quantities of raw materials and of industrial raw materials shall be expressed in tonnes of white sugar equivalent or in tonnes of dry matter in the case of isoglucose.

CHAPTER II

LEVY

Article 3

Amount

1 The levy provided for in Article 15 of Regulation (EC) No 318/2006 shall be EUR 500 per tonne.

2 Before 1 May following the marketing year in which the surplus has been produced, the Member State shall notify manufacturers of the total levy to be paid. This amount shall be paid by the manufacturers in question before 1 June of the same year.

[[F1]Should Member States make use of the possibility foreseen in Article 19(3), the deadlines laid down in the first subparagraph shall be 1 November and 1 December respectively.**]**

3 The quantity on which the levy has been paid shall be considered to have been disposed of on the Community market.

Textual Amendments

F1 Inserted by Commission Regulation (EU) No 863/2010 of 29 September 2010 amending Regulation (EC) No 967/2006 as regards deadlines applicable to export and levying of sugar produced in excess of quota.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 967/2006. (See end of Document for details)*

Article 4

Surplus subject to levy

1 The levy shall be charged to manufacturers in respect of the surplus produced in excess of their quota for a given marketing year.

However, the levy shall not be charged on the quantities referred to in paragraph 1 which have been:

[[F2]a delivered to a processor on 30 November of the following marketing year at the latest to be used in the manufacture of the products referred to in the Annex;**]**

b carried forward in accordance with Article 14 of Regulation (EC) No 318/2006 and, in the case of sugar, stored by the manufacturer until the last day of the marketing year in question;

c delivered before 31 December of the following marketing year in the context of the specific supply arrangements for the outermost regions provided for in Title II of Regulation (EC) No 247/2006;

d exported before 31 December of the following marketing year under an export licence;

e destroyed or damaged without possibility of recovery, in circumstances recognised by the competent authority of the Member State concerned.

2 Sugar manufacturers shall communicate to the competent authority of the Member State which approved them, before 1 February of the marketing year concerned, the quantity of sugar produced in excess of their production quota.

Sugar manufacturers shall also communicate, where appropriate, before the end of each of the following months, the adjustments to this production made in the course of the previous month of that marketing year.

3 The Member States shall establish and communicate to the Commission, not later than 30 June, the quantities referred to in the second subparagraph of paragraph 1, the total surplus quantities and the levies charged for the previous marketing year.

[[F1]Should Member States make use of the possibility foreseen in Article 19(3), the deadline laid down in the first subparagraph shall be 31 December.**]**

4 If, in cases of *force majeure*, the operations referred to in paragraph 1(a), (c) and (d) cannot be carried out within the given deadlines, the competent authority of the Member State on whose territory the surplus sugar, isoglucose or inulin syrup was produced shall adopt measures appropriate to the circumstances cited by the party concerned.

Textual Amendments

F1 Inserted by Commission Regulation (EU) No 863/2010 of 29 September 2010 amending Regulation (EC) No 967/2006 as regards deadlines applicable to export and levying of sugar produced in excess of quota.

F2 Substituted by Commission Implementing Regulation (EU) No 1278/2014 of 1 December 2014 amending Regulations (EC) No 967/2006, (EC) No 828/2009, (EC) No 891/2009 and Implementing Regulation (EU) No 75/2013.