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COMMUNICATION FROM THE COMMISSION

**concerning proposals to amend Council Regulation (EC) No 318/2006
on the common organisation of the markets in the sugar sector and
Council Regulation (EC) No 320/2006 establishing a temporary scheme
for the restructuring of the sugar industry in the Community**

- Part I -

Proposal for a

COUNCIL REGULATION

**amending Regulation (EC) No 320/2006 establishing a temporary scheme
for the restructuring of the sugar industry in the Community**

Proposal for a

COUNCIL REGULATION

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

- Part II -

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The reform of the sugar sector agreed in November 2005 and reflected in Council Regulation (EC) No 318/2006 aims at providing a sustainable future for the EU sugar sector. In a future context of increased competition the progressive reduction of internal prices and of EU production is necessary.

To facilitate the voluntary reduction of EU production a scheme was introduced offering sugar enterprises financial aid for restructuring. If appropriate, after the end of the restructuring period in 2010, a last adjustment of EU production will be possible through a linear quota cut decided by the Commission.

The new sugar regime also introduces a withdrawal mechanism. This management tool aims at adjusting production levels on a yearly basis with a view to assuring market balance at a level close to the reference price. The new mechanism applies to sugar produced under quota and is based on a percentage withdrawal, to be decided in October for the ongoing marketing year.

2. FUNCTIONING OF THE NEW SUGAR CMO

In 2006/2007, the first year of implementation of the reformed sugar CMO, the renunciation of quota under the restructuring regime reached 1.5 mio tonnes. The reduction was partly offset by the allocation of 1 mio tonne of additional quota for sugar and isoglucose, as allowed by the reform.

As from the reform exports are limited to 1.374 mio tonnes a year (instead of an average 4.6 mio tonnes in previous marketing years), a market imbalance was anticipated in early 2006. On the basis of special measures designed to facilitate the transition between the old and the new CMO, the Commission in March 2006 decided on a one-off preventive withdrawal for the 2006/2007 marketing year with:

- a threshold, resulting from a coefficient applicable to the allocated quota, which allowed enterprises to limit production under quota at the threshold level,
- a differentiation of threshold per Member State to take into account both their response to the restructuring regime and the former "A" and "B" quotas.

This measure resulted partly in a reduction of sugar production and partly in sugar either carried forward or available for industrial uses (1.1 mio tonnes). In October 2006, based on updated forecasts, the market appeared more or less balanced and no further withdrawal was deemed necessary.

For the 2007/2008 marketing year, the second year of implementation of the reformed sugar CMO, decisions to renounce quota under the restructuring regime reached 0.7 mio tonnes, far below the expected target of 5 mio tonnes.

As a consequence, in early 2007 the balance forecast for the 2007/2008 marketing year showed an expected oversupply of 4 mio tonnes. On the basis of "special powers given to it for emergencies", the Commission in March 2007 decided to withdraw an amount of quota sugar corresponding to 2 mio tonnes of sugar. By derogation from Regulation (EC) No 318/2006 this special measure included:

- a decision before beet sowings, enabling a reduction of beet and sugar production,
- the possibility for enterprises which reduce production to be exempted from the obligation to store 13.5% of their quota production,
- a differentiation of threshold per Member State to take into account their response to the restructuring regime.

3. ISSUES

Withdrawal

Under Article 19 of Council Regulation (EC) No 318/2006, the Commission establishes in October a percentage withdrawal compatible with the market balance. Each enterprise must store, at its own expense, a quantity of sugar corresponding to the established percentage, applied to its production of quota sugar. The withdrawn sugar is considered to be part of the following marketing year's production.

Article 19 would have been appropriate for small adjustments in the level of production under quota in the context of what was expected to be only a limited imbalance of the EU market. In case of fine tuning, a decision in October, at the beginning of each marketing year, based on accurate production data, is efficient and the obligatory storage of excess quantities at the industry's expense does not entail heavy financial burden for producers.

However, the poor response to the restructuring scheme is resulting in significant market imbalances which can be anticipated long before the start of the marketing year – once the deadline for applications for the restructuring fund is past. In this context, with the existing withdrawal mechanism, all sugar beets needed to the production of the overall quota have to be sown, triggering the production of sugar in excess, which then has to be withdrawn from the market and stored by the producers at their own cost.

Restructuring scheme

The price decrease so far has been moderate for processors and has not yet been felt by growers (who receive payments for their beet with considerable delays and in instalments, according to the interprofessional agreement). Therefore producers, in particular sugar beet growers, have not yet been sensitive to sugar market price signals.

Processors have been discouraged by the Member State's possibility of reducing their quota by up to 25% during the first two years of the restructuring period in order to reallocate it to the other sugar producers¹. This possibility has not actually been used, but threats to do so have allegedly been made.

Processors are insecure because the Member State can fix the percentage of aid to be given to farmers above the 10% minimum; they therefore have to draw up a restructuring plan without knowing the exact amount that will be available to them.

4. RESULTS OF CONSULTATIONS WITH THE INTEREST PARTIES

Consultation of the stakeholders of the markets in the sugar sector took place in the Sugar Advisory Group on 12 February 2007 where participants were invited to express their views on how to improve the efficiency of the restructuring fund. CEFS (European Committee of sugar producers) presented its official proposal. CIBE (European beet growers association) expressed its views as well.

Several meetings, at different levels, took place in February and March. Official positions were also received by mail.

List of meetings

CEFS:

13 March 2007 with services

28 March 2007 with services, together with CIBE

CIBE:

14 March 2007 with services,

20 March with the Commissioner

28 March 2007 with services, together with CEFS

AAF – European starch producers:

28 February 2007 with services

Mail with official position

AAF letter from 20 March 2007

5. MEASURES PROPOSED

Withdrawal

Article 19 should be modified to introduce a system of thresholds – moving away from a system which reduces the level of sugar effectively produced under quota.

In addition, during the transition period, until the 2009/2010 marketing year:

¹ The possibility to allow the Member States in agreement with the growers to reduce an undertaking's quota by up to 25% and to renounce this quota under the restructuring fund has been analysed.

- a first decision should be allowed before sowing takes place, possibly completed by a further withdrawal in October based on updated data;
- to take account of Member States that have participated in the restructuring regime the threshold in those Member State should be adapted in proportion to the quota renounced, with a modulation between undertakings according to their individual restructuring effort;
- the traditional supply needs which are total quantities for which full-time refiners have a priority access to preferential imports, should not be reduced in relation of the withdrawal.

Restructuring scheme

- the percentage of the aid to be given to growers and contractors should be fixed at 10% with a top-up to growers;
- the improved conditions should be made retroactive, to avoid penalizing growers and enterprises that took part in 2006/2007 and 2007/2008;
- growers should be given the possibility of taking the initiative for renouncing quota, within certain limits, to avoid endangering the survival of the factory concerned;
- if in 2008/2009 an enterprise renounces at least a certain amount of quota, it will not be subject to the payment of the restructuring amount in 2007/2008 for the part of the quota which is concerned by the withdrawal decision;
- if there are reliable indications that the quantitative objective of the temporary scheme for the restructuring of the sugar industry in the Community will nearly be reached in 2008/2009 already, the Commission can extend the application deadline.

In addition, in the event of an obligatory quota cut in 2010, the cut per Member State should reflect their success in reducing national quota under the restructuring regime.

The modifications described concern Regulation (EC) No 318/2006 for withdrawals and the final quota cut and Regulation (EC) No 320/2006 for the restructuring scheme.

6. IMPACT

Adaptation of withdrawal will alleviate the consequence of the delay in the restructuring process. It has no financial impact.

The adaptation of the restructuring scheme is drawn up to reach the objective of a further 3.8 mio tonnes of quota renunciation in 2008/2009 and 2009/2010.

The additional amounts for the restructuring aids can be financed within the restructuring fund whose principle of self-financing remains valid.

COMMUNICATION FROM THE COMMISSION

concerning proposals to amend Council Regulation (EC) No 318/2006 on the common organisation of the markets in the sugar sector and Council Regulation (EC) No 320/2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community

The Commission has on [date] presented to the Council a proposal for a Regulation amending Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community² and a proposal for a Regulation amending Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector³.

The aim of the first proposal is to make the participation in the restructuring scheme more attractive. To that end, it is proposed to fix the percentage of the restructuring aid to be paid to growers and machinery contractors at 10%, thereby removing the uncertainty resulting from the current possibility that a Member State might decide to set a higher percentage. Growers are instead to receive an additional payment.

It is further proposed to introduce for the marketing year 2008/2009 a possibility for growers to trigger the restructuring process by making a direct application for restructuring aid, provided that they renounce their delivery rights in relation to undertaking to which they have been bound by delivery contracts in the previous marketing year. As a consequence, the Member State should reduce the quota of the undertaking concerned correspondingly. The application of the proposed measure is however limited to a quota reduction of up to 10% of the quota allocated to the undertaking concerned, and the Member State's acceptance of growers' applications should thus be based on a first-come-first-served list.

The amendments to Regulation (EC) No 320/2006 should start to apply as from the 2008/2009 marketing year. Considering that the deadline for applications for restructuring aid is 31 January 2008, sugar undertakings and growers are advised to carefully analyze their competitive position in the medium and long term and prepare for their eventual applications for restructuring aid in due time.

The second proposal concerns amendments to the provisions of Regulation (EC) No 318/2006 governing the instrument of withdrawal. This includes integrating into the Council Regulation the criteria laid down in Commission Regulation (EC) No 290/2007 with regard to a possible further withdrawal in autumn 2007. It is also proposed to abolish the provision according to which traditional supply needs for refiners shall be reduced in case of a withdrawal. This would apply as from the marketing year 2007/2008.

² OJ L 58, 28.2.2006, p.48.

³ OJ L 58, 28.2.2006, p. 1.

Proposal for a

COUNCIL REGULATION

**amending Regulation (EC) No 320/2006 establishing a temporary scheme
for the restructuring of the sugar industry in the Community**

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 from the European Parliament⁴,

Whereas:

- (1) Council Regulation (EC) No 320/2006⁵ was adopted with the aim to enable the least competitive sugar producers to give up their quota production. However, the renunciation of quotas under that Regulation has not reached the level that was initially expected.
- (2) In accordance with Article 10(2) of Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector⁶, a linear reduction of national and regional quotas is to be carried out by the end of February 2010 at the latest, with a view to avoiding market imbalances in the marketing years as from 2010/2011, taking into account the results of the restructuring scheme. Such a linear cut may penalize the most competitive undertakings and weaken the industry as a whole. To avoid this, it is considered necessary to improve the functioning of the restructuring scheme, in order to increase the renunciation of quotas under that scheme.
- (3) It appears that sugar undertakings have been discouraged from making applications for restructuring aid by the fact that there is no certainty as regards the amount of restructuring aid that they will receive, since Member States can decide to increase the minimum percentage of the aid reserved for growers of beet, cane or chicory and for machinery contractors, in accordance with Article 3(6) of Regulation (EC) No 320/2006. To remove this uncertainty, the amount of aid to be reserved to growers and machinery contractors should be fixed at 10% of the aid to be granted to the sugar

⁴ OJ C ..., ..., p.

⁵ OJ L 58, 28.2.2006, p. 42.

⁶ OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Regulation (EC) No [...] /2007 (OJ L ..., ..., p. ...).

undertakings and the growers concerned should be granted an additional payment for the 2008/2009 marketing year.

- (4) In order not to penalize undertakings and growers who took part in the restructuring scheme in the 2006/2007 and 2007/2008 marketing years, the difference between the aid amount granted for those marketing years and the aid amount that would have been granted for the 2008/2009 marketing year should be paid retroactively to them.
- (5) If the Commission has reliable indications that the aim of the restructuring fund, namely the renunciation of 3.8 million tonnes of quota, will be nearly reached in the 2008/2009 marketing year, the Commission should be given the possibility to prolong the deadline for applications in order to accelerate the restructuring process.
- (6) It is considered that the restructuring scheme would give better result if growers were able to give up on their own initiative their production of beet or cane intended to be processed into quota sugar. To that end, growers should in the 2008/2009 marketing year be given the possibility to apply directly for the aid provided for in Article 3(6) of Regulation (EC) No 320/2006 provided that they cease to deliver sugar beet or cane to the undertakings to which they were bound by delivery contracts in the previous marketing year. As a consequence, Member States should reduce the quota of the sugar undertakings concerned.
- (7) In order to avoid endangering the economic viability of the sugar undertakings concerned by growers' aid applications, the quota reduction should be limited to 10% of the quota allocated to each undertaking, which corresponds to the percentage of quota which the Member State can re-allocate each marketing year in accordance with Article 11(1) of Regulation (EC) No 318/2006.
- (8) Where the quota of a sugar undertaking is reduced as a result of growers' aid applications, that undertaking should be granted restructuring aid as referred to in Article 3(1)(c) of Regulation (EC) No 320/2006. Consequently, the aid amounts granted should be those referred to in Article 3(5)(c) of that Regulation. However, those amounts should be adjusted downwards if the undertaking does not take measures in favour of the workforce concerned by the reduction of quota production.
- (9) A sugar undertaking concerned by growers' aid applications should until 31 January preceding the marketing year concerned retain the right to submit an application for restructuring aid as provided for in Articles 3 and 4 of Regulation (EC) No 320/2006, provided that it renounces a quota corresponding to at least the same level of quota reduction that would have resulted from the applications for aid lodged by growers. In that case the sugar undertaking's aid application should replace the growers' applications.
- (10) In order to create a further incentive to participate in the restructuring scheme, it is considered appropriate to provide for the exemption of a part of the temporary restructuring amount to be paid in accordance with Article 11 of Regulation (EC) No 320/2006 for the 2007/2008 marketing year to those undertakings which renounce, for the 2008/2009 marketing year, a percentage of their quota of at least the withdrawal percentage applied to the undertaking in 2007/2008. The amount to be exempted should be proportional to this withdrawal percentage.

- (11) Regulation (EC) No 320/2006 should therefore be amended accordingly.
- (12) Account should be taken in this Regulation of the fact that the total quota for production of inulin syrup was renounced under the restructuring scheme already in the 2006/2007 marketing year. Hence, there is no longer any need to refer to that product or to the raw material from which it is produced, that is to say chicory,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 320/2006 is amended as follows:

- (1) Article 3 is amended as follows:
 - (a) in paragraph 6, the first and second subparagraphs are replaced by the following:

"An amount of 10% of the relevant restructuring aid fixed in paragraph 5 shall be reserved for:

- (a) growers of sugar beet and cane having delivered these products during a period preceding the marketing year referred to in paragraph 2 for the production of sugar under the relevant quota renounced;
- (b) machinery contractors, being private persons or enterprises having worked under contract with their agricultural machinery for the growers, for the products and in the period referred to in point (a).

After consultation of the interested parties, Member States shall determine the period referred to in the first subparagraph."

- (b) the following paragraphs are added:
 - "7. For the 2008/2009 marketing year, growers referred to in paragraph 6(a) shall receive an additional payment of EUR 237.5 per tonne of quota renounced.
 - 8. This paragraph shall apply to
 - (a) undertakings having renounced quota under the restructuring scheme in the 2006/2007 or 2007/2008 marketing year, and
 - (b) growers and machinery contractors concerned by the quota renunciation referred to in point (a).

Where the amounts granted in the 2006/2007 and 2007/2008 marketing years under paragraphs 1 to 6 to persons covered by the previous subparagraph, were less than the amounts that they would have received under the conditions applicable in the 2008/2009 marketing year, the difference shall be granted to them retroactively.

Where the amounts granted in the 2006/2007 and 2007/2008 marketing years to growers under paragraph 7 were less than the amounts that they would have received under the conditions applicable in the 2008/2009 marketing year, the difference shall be granted to them retroactively."

(2) In Article 4(1), the following sub-paragraph is added:

"The Commission may extend for the 2008/2009 marketing year the application deadline mentioned in the first sub-paragraph for up to 20 working days, if by 31 December 2007 there are reliable indications that the 3.8 million tonnes objective of quota renunciation under the temporary scheme for the restructuring of the sugar industry in the Community will nearly be reached in the 2008/2009 marketing year. The Commission shall make this extension known by means of a communication published in the C series of the *Official Journal of the European Union* before 1 January 2008."

(3) The following Article 4a is inserted:

*"Article 4a
Application for restructuring aid by growers*

1. For the 2008/2009 marketing year, any grower of sugar beet or cane intended to be processed into quota sugar may submit to the Member State concerned a direct application for the aid provided for in Article 3(6), accompanied by a commitment to cease his delivery of quota beet or cane to the undertaking with which he has concluded a delivery contract in the preceding marketing year.
2. The applications referred to in paragraph 1 shall be submitted by 30 November 2007. Applications may be submitted as from the date of entry into force of this regulation.
3. The Member State concerned shall establish a list of applications referred to in paragraph 1 in the chronological order of their lodging and shall communicate this list to the applicants and undertakings concerned within 10 working days following the deadline for submission as referred to in paragraph 2.
4. The Member State concerned shall, on the basis of the chronological order referred to in paragraph 3, accept growers' applications corresponding to up to 10% of the quota allocated to each undertaking and shall reduce in proportion the quota of the undertaking concerned in accordance with Article 11(4) of Regulation (EC) No 318/2006.

In the case where the limit of 10% is reached, the Member State concerned shall totally or partially reject the remaining applications.

The undertaking concerned shall establish and implement a social plan as referred to in Article 4(3)(f) of this Regulation.

5. As a result of the Member State's acceptance of applications in accordance with paragraph 4, the amount of restructuring aid to be granted shall be as follows:

- (a) for growers, 10% of the relevant aid amount fixed in Article 3(5)(c) and, for the 2008/2009 marketing year, the additional payment referred to in Article 3(7);
 - (b) for undertakings, the relevant aid amount fixed in Article 3(5)(c), reduced by 10%, or by 60% if the undertaking concerned does not respect the requirement set out in the second subparagraph of paragraph 4 of this Article.
6. Paragraphs 1 to 5 shall not apply in the case where an undertaking submits an application for restructuring aid in accordance with Article 4 by which it renounces a quota corresponding to at least the amount of quota that would have been reduced as a result of the Member State's acceptance of growers' aid applications."
- (4) In Article 5(1), the following subparagraph is added:
- “Where the Commission extends the deadline referred to in Article 4(1), as provided for in the third sub-paragraph of that Article, the deadline mentioned in the first subparagraph of this paragraph is extended automatically by the same length of time.”
- (5) In Article 11, the following paragraph is added:
- "6. In the 2008/2009 marketing year, undertakings which were subject to the application of the withdrawal percentage set on 16 March 2007 by Article 1(1) or Article 1(2) of Regulation (EC) No 290/2007* and renounce a percentage of their quota of at least this withdrawal percentage, shall be exempted from part of the temporary restructuring amount to be paid for the 2007/2008 marketing year.

In the case where the conditions referred to in the first subparagraph are fulfilled, the reduction of the temporary restructuring amount shall be calculated by multiplying that amount by the withdrawal percentage set in accordance with Article 1(1) or 1(2)(c) of Regulation (EC) No 290/2007.

* OJ L 78, 17.3.2007, p. 20."

Article 2

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council
The President*

Proposal for a

COUNCIL REGULATION

**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 Parliament⁷,

Whereas:

- (1) In accordance with Article 10(2) of Council Regulation (EC) No 318/2006⁸, the Commission is to decide by the end of February 2010 to carry 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 and amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy⁹. In order to encourage an increased participation in that 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 enable Member States to modulate this percentage by undertakings according to the individual restructuring effort of each undertaking.
- (2) Article 4a of Regulation (EC) No 320/2006 provides for 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 bound by delivery contracts in the previous marketing year. Member States are to, as a result of the acceptance of such applications, 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.

⁷ OJ C ..., ..., p.

⁸ OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Commission Regulation (EC) No 247/2007 (OJ L 69, 9.3.2007, p. 3).

⁹ OJ L 58, 28.2.2006, p. 42. Regulation as amended by Regulation .../2007 (OJ L ...).

- (3) Article 19 of Regulation (EC) No 318/2006 provides for 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 incited 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.
- (4) Member States are to decide on the granting of restructuring aid under Regulation (EC) No 320/2006 by the end of February 2008 and 2009 as provided for in Article 5 of that Regulation. Once their decisions are taken, it will be possible to establish forecasts with a high degree of probability as regard the market balances in the following marketing year. In this context, it is considered that the objective of withdrawal will be better achieved if the withdrawal coefficient for the 2008/2009 and 2009/2010 marketing years can be temporarily and 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.
- (5) In order to take into account updated market data on production, provision should be made for the temporary and preventive withdrawal coefficient fixed in March to be reduced if necessary for the marketing year concerned.
- (6) It is necessary to limit the scope of the obligation provided for in Article 6(5) of Regulation (EC) No 318/2006, so as to avoid imposing on sugar undertakings to pay the minimum price for quantities of beet corresponding to their entire quota, including those quantities which may be produced beyond the threshold.
- (7) 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 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.
- (8) 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, modulated by the Member State for each undertaking according to its individual restructuring effort.

- (9) 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.
- (10) Article 1(1) of 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 318/2006¹⁰ fixed the withdrawal percentage for that marketing year at 13.5%. Article 1(2) of that Regulation provides for a derogation consisting of a threshold for applying the withdrawal percentage, thereby limiting the withdrawal requirements for those undertakings which do not contribute to the surplus production. In addition, the withdrawal percentage is reduced in the case of Member States which have made particular efforts under the restructuring scheme. In order to avoid confusion as a result of the changes to the withdrawal instrument introduced by this Regulation, it should be specified that, for the 2007/2008 marketing year, the percentage provided for in Article 1(1) of Regulation (EC) No 290/2007 should be converted into an equivalent coefficient.
- (11) Article 6 of Council 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 to derogate 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 beets processed into sugar should be provided for, as was the case until the application of Regulation (EC) No 318/2006.
- (12) 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.
- (13) Regulation (EC) No 318/2006 should therefore be amended accordingly.
- (14) 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,

¹⁰ OJ L 78, 17.3.2007, p. 20.

HAS ADOPTED THIS REGULATION:

Article 1

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

(1) In Article 6, paragraph 6 is replaced by the following:

"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 is 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 shall be adjusted by the end of February at the latest of the previous marketing year for each of the 2008/2009, 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, for Member States for which the national quota has been reduced as a result of renunciations of quota in accordance with Articles 3 and 4(a)4 of Regulation (EC) No 320/2006, the applicable percentage shall be fixed in accordance with the criteria laid down in Annex VIII to this Regulation. Such Member States shall adjust, for each undertaking in their territory holding a quota, the percentage derived from the application of Annex VIII in proportion to the individual renunciation of quotas within the restructuring scheme for the undertaking concerned, in such a way that the total reduction of quotas in the Member State resulting from the percentage referred to in the second subparagraph remains unchanged.

(3) Article 11 is amended as follows:

(a) the title is replaced by the following:

*"Article 11
National quota reallocation and reduction of quotas"*

- (b) the following sentence is added to paragraph 1:
“In doing so, the Member States shall apply objective and non discriminatory criteria.”
- (c) the following paragraph is added:
"4. By way of derogation from paragraph 3, 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 the second indent of paragraph 1 of this Article.
- (4) In Article 15(1), point (c) is replaced by the following:
"(c) sugar, isoglucose and inulin syrup 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) Article 19 is 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, until the beginning of the following marketing year, those quantities of sugar or isoglucose produced under quotas which exceed the threshold calculated in accordance with paragraph 2.
2. The withdrawal threshold referred to in paragraph 1 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 31 October of the marketing year concerned, on the basis of expected market trends during that marketing year.
3. Each undertaking provided with a quota shall store at its own expense during the period of withdrawal 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. However, 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:

- (a) surplus sugar or surplus isoglucose available to become industrial sugar or industrial isoglucose, or
 - (b) temporary quota production of which a part may be reserved for export respecting the commitments of the Community resulting from agreements concluded in accordance with Article 300 of the Treaty.
 4. If sugar supply in the Community is inadequate, it may be decided, in accordance with the procedure referred to in Article 39(2) that a certain quantity of withdrawn sugar may be sold on the Community market before the end of the period of withdrawal."
- (6) The following Article 19a is inserted:

"Article 19a

Withdrawal of sugar in the 2007/2008, 2008/2009 and 2009/2010 marketing years

1. By way of derogation from Article 19(2), and in accordance with the procedure referred to in Article 39(2), the Commission may decide to fix the coefficient referred to in Article 19(2) for the 2007/2008, 2008/2009 and 2009/2010 marketing years by 16 March at the latest of the previous marketing year, taking into account the result of the reduction in each Member State of the national sugar quota as fixed in Annex III to this Regulation compared to the version of Annex III applicable on 1 July 2006. For those Member States which were not members of the Community on 1 July 2006, the comparison should take account of the version of Annex III applicable on the date of their accession to the Community.

For the application of this Article, the withdrawal percentage for the 2007/2008 marketing year provided for in Article 1(1) of Commission Regulation (EC) No 290/2007* shall be converted into a coefficient of 0.865.

2. On the basis of updated market trends, it may be decided, by 31 October of the marketing year concerned and in accordance with the procedure referred to in Article 39(2), to reduce the coefficient fixed in accordance with paragraph 1 of this Article.
3. The coefficients referred in Article 19(2) and in paragraphs 1 and 2 of this Article shall in the marketing year concerned not apply to an undertaking which in accordance with points (a) or (b) of Article 3(1) of Regulation (EC) No 320/2006 renounces, with effect from the following marketing year, the total quota assigned to that undertaking.
4. For the Member States where the national sugar quota has been reduced as a result of renunciations of quota as provided for in Article 3 of Regulation (EC) No 320/2006, the coefficients fixed in accordance with Article 19(2) or paragraphs 1 and 2 of this Article shall be adjusted in accordance with Annex IX to this Regulation.

Such Member States shall adjust, for each undertaking in their territory holding a sugar quota, the coefficient derived from the application of Annex IX in proportion to the individual renunciation of sugar quota within the restructuring scheme for the undertaking concerned, in such a way that the applicable coefficient for that Member State as a whole, as defined in Annex IX, remains unchanged.

* OJ L 78, 17.3.2007, p. 20."

- (7) In Article 29(1), the first subparagraph is replaced by the following:
"A traditional supply need of sugar for refining is fixed for the Community at 2 324 735 tonnes per marketing year, expressed in white sugar."
- (8) In Annex V point VI, the reference to Article 10(3) is replaced by a reference to Article 10(2).
- (9) The text in the Annex to this Regulation is added as Annexes VIII and IX.

Article 2

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council
The President*

ANNEX

"ANNEX VIII

CALCULATION OF THE PERCENTAGE APPLICABLE TO MEMBER STATES FOR WHICH THE NATIONAL QUOTA HAS BEEN REDUCED

1. For the purpose of the calculation set out in point 2, the following definitions shall apply:
 - (a) "applicable percentage" means the percentage applicable in each Member State to the quotas allocated to each undertaking;
 - (b) "common percentage" means the common percentage established by the Commission in accordance with the first subparagraph of Article 10(2);
 - (c) "reduction" means the figure obtained by dividing the total renunciation of quotas in the Member State by the national quotas as fixed in Annex III to this Regulation in the version applicable on 1 July 2006. For those Member States which were not members of the Community on 1 July 2006, the reference to Annex III concerns the version applicable on the date of their accession to the Community.
2. The applicable percentage is equal to the common percentage multiplied by $1 - [(1/0,6) \times \text{the reduction}]$.

When the result is below zero, the applicable percentage is equal to zero.

ANNEX IX

CALCULATION OF THE COEFFICIENT APPLICABLE TO MEMBER STATES FOR WHICH THE NATIONAL SUGAR QUOTA HAS BEEN REDUCED

1. For the purpose of the calculations set out in points 2 and 3, the following definitions shall apply:
 - (a) "applicable coefficient" means the coefficient applicable in each Member State to the quotas of each undertaking;
 - (b) "reduction" means the figure obtained by dividing the total renunciation of sugar quotas in the Member State, including renunciations in the marketing year to which the withdrawal applies, by the national sugar quotas as fixed in Annex III to this Regulation in the version applicable on 1 July 2006; for those Member States which were not members of the Community on 1 July 2006, the calculation should take account of the version of Annex III applicable on the date of their accession to the Community;
 - (c) "coefficient" means the coefficient established by the Commission in accordance with Article 19(2) or 19a (1) and (2).
2. For the 2007/2008 marketing year, the applicable coefficient shall be equal to the coefficient increased by $[(1/0,5) \times \text{the reduction}] \times (1 - \text{the coefficient})$.

When the result is above 1, the applicable coefficient is equal to 1.
3. For the 2008/2009 and 2009/2010 marketing years, the applicable coefficient shall be equal to the coefficient increased by $[(1/0,6) \times \text{the reduction}] \times (1 - \text{the coefficient})$.

When the result is above 1, the applicable coefficient is equal to 1."

FINANCIAL STATEMENT

FINANCIAL STATEMENT					
1.	BUDGET HEADING (nomenclature 2007): 05 02 05 05 02 16 680	APPROPRIATIONS (budget 2007): 323 Mio€ pm Mio€ pm Mio€			
2.	TITLE: – Council Regulation amending Council Regulation (EC) No 320/2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community; – Council Regulation amending Regulation (EC) No 318/2006 on the common organisation of the markets in the sugar sector				
3.	LEGAL BASIS: Articles 36 and 37 of the EC Treaty				
4.	AIMS: – to improve the voluntary restructuring scheme in the sugar sector and create a further incentive to participate in this scheme; – to preserve structural market balance by refining the rules on temporary sugar withdrawal in the 2007/08, 2008/09, 2009/10 marketing years.				
5.	FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	FINANCIAL YEAR 2007 (EUR million)	FINANCIAL YEAR 2008 (EUR million)	
5.0	EXPENDITURE – CHARGED TO THE EC BUDGET (REFUNDS / INTERVENTIONS) – NATIONAL AUTHORITIES – OTHER		–	+ 332	
5.1	REVENUE – OWN RESOURCES OF THE EC (LEVIES / CUSTOMS DUTIES) – NATIONAL		–	– 204	
		2009	2010	2011	2012
5.0.1	ESTIMATED EXPENDITURE	+ 62	–	–	–
5.1.1	ESTIMATED REVENUE	– 136			
5.2	METHOD OF CALCULATION: See calculations in the annex.				
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?				YES NO
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?				YES NO
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?				YES NO
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?				YES-NO
OBSERVATIONS:					
<p>The principle of self-financing of the temporary restructuring Fund is still valid under these new rules. The granting of any aid referred to in Council Regulation (EC) No 320/2006 is only possible within the limit of the appropriations available in the Fund. A simulation of the financial situation of the Fund under these new rules is provided for in the annex (point 5).</p> <p>Council Regulation (EC) No 318/2006 is aimed at improving the market balance in case of potential surplus of sugar on the internal market, and as such will not lead to any additional budget expenditure.</p>					

ANNEX

1 – Foreseen available resources in the restructuring Fund at the end of the 2007/08 marketing year (current regime) (€mio)

	Expenditure	Revenue	balance	cumulated balance
2006/07 marketing year	1 358	2 145	787	
2007/08 marketing year	573	2 866	2 293	3 080

2 – Cost of exoneration of the 2007/08 levy for the quantities withdrawn (in case of renouncement of quotas in 2008/09 at least equal to the quantities withdrawn)

Maximum reduction of levy in the 2007/08 marketing year = €173,8/t x 12% x 16,1 mio t: around €340 mio

This exoneration would have an impact in:

- March 2008 (2008 budget) for the payment of the 1st instalment (60%) of the temporary restructuring amount:
340*60% = €204 mio
- November 2008 (2009 budget) for the payment of the 2nd instalment (40%) of the temporary restructuring amount:
340*40% = €136 mio

Cumulated balance at the end of the 2007/08 marketing year: 3 080 – 340 = €2 740 mio

3 – Cost of retroactive increase in years 1 and 2 of beet grower's part

Cost of this measure: around €373 mio (see detailed calculations below)

Cumulated balance at the end of the 2007/08 marketing year: 2 740 – 373 = €2 367 mio

4 – Cost of retroactive increase in years 1 and 2 of undertaking's part

Cost of this measure: around €22 mio (see detailed calculations below)

Cumulated balance at the end of the 2007/08 marketing year: 2 367 – 22 = €2 345 mio

These retroactive payments amount (beet grower + undertaking parts):

€291 mio for the 2006/2007 marketing year. It is most likely that they will occur during the 2008 budget year

€104 mio for the 2007/2008 marketing year. The impact will occur in:

June 2008 (2008 budget) for 40%: €41 mio

November 2008 (2009 budget) for 60%: €62 mio

5 – Simulation of the situation of the Fund with 625 €/t for quota abandonment in the 2008/2009 marketing year, of which 10% for beet grower + top-up for beet growers of €237.5/t

The Fund would be fully spent with around 3,85 mio t of quotas renounced in year 3 (residual balance: around only €54 mio)

EUR mio	Expenditure	Revenue	Balance	Cumulated balance
2006/07 marketing year	1 649	2 145	496	
2007/08 marketing year	677	2 526	1 849	2 345
2008/09 marketing year	3 730	1 439	-2 291	54
2009/10 marketing year		No levy	0	54
Total	6 056	6 110		54

Detailed calculations

Cost of retroactivity on beet grower's aid

Aid for beet grower 2008/09 (a)	62,5
Top-up for beet grower (b)	237,5
Total amount beet grower: (a) + (b)	300
=> %stage of 2006/07 restructuring aid (€730/t)	41,10

= €10%*625/t

	recorded rate	difference with target	quantities concerned (tons)	Cost of retroactivity: percentage of difference x quantities x restructuring aid 2006/07
2006/07				
IR	32,3**	8,80	199260	12 794 485
SV	12,5	28,60	42562	8 884 818
IT	10	31,10	778737,2	176 773 344
ES - Linares	10	31,10	75325	17 098 775
ES - Ciudad Real	15	26,10	17793,5	3 389 662
PT	10	31,10	35218	2 798 070
BE-NL inuline *	10	31,10	296195,8	50 427 335
FR inuline *	10	31,10	24521	5 566 267
			total	277 732 755

* No information being available on the part given to beet growers and machinery contractors, the minimum rate of 10% has been retained

** Not yet final

	recorded rate	difference with target	quantities concerned (tons)	Cost of retroactivity: percentage of difference x quantities x restructuring aid 2007/08
2007/08				
IT	10	31,10	24860,499	5 643 333
PT	28	13,10	19500	1 864 200
ES - Linares	10	31,10	12186,6	2 766 358
ES - Ciudad Real	15	26,10	4492,2	855 764
FI	17	24,10	56087	9 865 703
HU	27	14,10	108093	11 122 770
CZ	29,3	11,80	102472,793	8 823 932
SK	20	21,10	70133	10 800 482
EL	17	24,10	158800	20 949 690
SL	10	31,10	52973	12 024 871
LV	20	21,10	66505	10 241 770
Isoglucose pas concerné par ces 10% au moins			total	94 958 874

total for the 2 marketing years: 372 691 629

Cost of retroactivity on undertaking's aid

Undertaking's part for the 2008/2009 marketing year = 90%*625 = 562,5 €/t

target: 562,5

	recorded rate	Amount per ton received = recorded rate x restructuring aid 2006/07	target	Cost of retroactivity = difference between the target and the amount actually received x quantities concerned
2006/07				
IR	67,7	494,21	562,5	13 607 465
SV	87,5	638,75	562,5	0
IT	90	657	562,5	0
ES - Linares	90	657	562,5	0
ES - Ciudad Real	85	620,5	562,5	0
PT	90	229,95	196,875 *	0
BE-NL inuline	90	492,75	421,875 **	0
FR inuline	90	657	562,5	0
Isoglucose not concerned			total	13 607 465

* No dismantling of the production facilities (Articles 3–5(c) of Regulation (EC) No 320/2006)

** Partial dismantling of the production facilities (Articles 3–5(b) of Regulation (EC) No 320/2006)

	recorded rate	Amount per ton received = recorded rate x restructuring aid 2007/08	target	Cost of retroactivity = difference between the target and the amount actually received x quantities concerned
2007/08				
IT	90	657	562,5	0,00
PT	72	525,6	562,5	719 550,00
ES - Linares	90	657	562,5	0,00
ES - Ciudad Real	85	620,5	562,5	0,00
FI	83	605,9	562,5	0,00
HU	73	532,9	562,5	3 199 552,80
CZ	70,7	516,11	562,5	4 753 712,87
SK	80	584	562,5	0,00
EL	83	454,425	421,875 **	0,00
SL	90	657	562,5	0,00
LV	80	584	562,5	0,00
Isoglucose not concerned			total	8 672 816

** Partial dismantling of the production facilities (Art 3–5(b) Reg (EC) 320/2006)

total for the 2 marketing years:

22 280 281

Total 2006/2007 marketing year (beet grower + undertaking):

291 340 221 €

Total 2007/2008 marketing year (beet grower + undertaking):

103 631 689 €

Simulation for the 2008/2009 marketing year

Expenditure

Hypothesis quotas renounced 2008/09 – tons	3 850 000
Restructuring aid – undertaking's part – €mio (a)	2 101
Restructuring aid – beet grower's part – €mio (b)	1 120
Diversification aid – €mio (c)	361
Additional aid for diversification – €mio (d)	148
TOTAL: (a) + (b) + (c) + (d)	3 730

Revenue

Sugar quotas at the end of the 2007/08 marketing year (a)	16 108 940,8
Hypothesis quotas renounced (b)	3 850 000
Temporary restructuring amount (c)	113,3 €/t
Sugar revenue – €mio (d) = (a-b)*c	1 389
Isoglucose quotas at the end of the 2007/08 marketing year (e)	880 092,8
Temporary restructuring amount (f)	56,65 €/t
Isoglucose revenue – €mio (g) = (e)*(f)	50
Total 2008/2009 revenue: (d)+(g)	1 439