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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

(OJ L 58, 28.2.2006, p. 42)

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► <u>M1</u>	Council Regulation (EC) No 2011/2006 of 19 December 2006	L 384	1	29.12.2006
► <u>M2</u>	Council Regulation (EC) No 1261/2007 of 9 October 2007	L 283	8	27.10.2007



COUNCIL REGULATION (EC) No 320/2006
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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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 36 and the third subparagraph of Article 37 (2) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion from the European Parliament ⁽¹⁾,

Having regard to the Opinion from the European Economic and Social Committee ⁽²⁾,

Whereas:

- (1) Due to developments within the Community and at international level, the sugar industry in the Community is faced with structural problems which could seriously put at stake the competitiveness and even the viability of the industry as a whole. These problems cannot be addressed effectively by using the market management instruments as provided for in the common market organisation for sugar. To bring the Community system of sugar production and trading in line with international requirements and ensure its competitiveness in the future it is necessary to launch a profound restructuring process leading to a significant reduction of unprofitable production capacity in the Community. To this end, as a precondition for the implementation of a functioning new common market organisation for sugar a separate and autonomous temporary scheme for the restructuring of the sugar industry in the Community should be established. Under this scheme quotas should be reduced in a manner that takes account of the legitimate interests of the sugar industry, sugar beet, cane and chicory growers and consumers in the Community.
- (2) A temporary restructuring fund should be set up in order to finance the restructuring measures for the Community sugar industry. For reasons of sound financial management the fund should form part of the Guarantee Section of the EAGGF and thus be governed by the procedures and mechanisms of Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy ⁽³⁾ and, as from 1 January 2007, of the European Agricultural Guarantee Fund set up by Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy ⁽⁴⁾.
- (3) Owing to the fact that outermost regions are currently the object of development programmes aimed at improving their competitiveness in raw sugar production and also produce raw cane sugar in competition with third countries, which are not subject to the

⁽¹⁾ Opinion delivered on 19 January 2006 (not yet published in the Official Journal).

⁽²⁾ Opinion delivered on 26 October 2005 (not yet published in the Official Journal).

⁽³⁾ OJ L 160, 26.6.1999, p. 103. Regulation as repealed by Regulation (EC) No 1290/2005 (OJ L 209, 11.8.2005, p. 1).

⁽⁴⁾ OJ L 209, 11.8.2005, p. 1.

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temporary restructuring amount, undertakings in the outermost regions should not fall under the scope of this Regulation.

- (4) The restructuring measures provided for by this Regulation should be financed by raising temporary amounts from those sugar, isoglucose and inulin syrup producers which will eventually benefit from the restructuring process. As this amount falls outside the scope of the charges traditionally known in the framework of the common market organisation for sugar, the proceeds resulting from its collection should be considered as 'assigned revenue' as provided for by Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾.
- (5) An important economic incentive for sugar undertakings with the lowest productivity to give up their quota production in the form of an adequate restructuring aid should be introduced. To this effect, a restructuring aid should be set up that creates an incentive to abandon sugar quota production and renounce the quotas concerned, at the same time allowing to take into due account the respect of social and environmental commitments linked to the abandoning of production. The aid should be available during four marketing years with the aim to reduce production to the extent necessary to reach a balanced market situation in the Community.
- (6) To support sugar beet, cane and chicory growers that have to give up production due to the closure of factories they had supplied previously, a part of the restructuring aid should be made available to these growers as well as to machinery contractors that have worked for these growers in order to compensate for losses resulting from these closures and in particular the loss of value of investments in specialised machinery.
- (7) As payments of the restructuring amount into the temporary restructuring fund are made over a certain period of time, it is necessary that payments of the restructuring aid are spread in time.
- (8) The decision as to the granting of the restructuring aid should be taken by the Member State concerned. Undertakings prepared to renounce their quotas should submit an application to this Member State providing the latter with all the relevant information in order to enable it to reach a decision on the aid. Member States should have the possibility to impose certain social and environmental requirements in order to take account of the particularities of the case presented as long as these requirements do not restrict the operation of the restructuring process.
- (9) A restructuring plan should form part of the application for restructuring aid. This plan should provide the Member State concerned with all the relevant technical, social, environmental and financial information allowing it to decide on the granting of the restructuring aid. Member States should take the necessary measures in order to exercise the necessary control over the implementation of all of the elements of the restructuring.
- (10) In the regions concerned by the restructuring process it might prove to be appropriate to encourage the development of alternatives to sugar beet and cane growing and sugar production. To this effect, Member States should have the possibility to allocate a certain part of the money available from the restructuring fund to diversification measures. These measures, established in the context of a national restructuring plan, may take the form of measures identical to certain measures supported under Council

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

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Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)⁽¹⁾ or to measures that are in conformity with Community law regarding State aid.

- (11) In order to speed up the process of restructuring, the aid available for diversification should be increased if the quotas renounced go beyond certain levels.
- (12) Full-time refiners should have the possibility to adapt their situation to the restructuring of the sugar industry. The adaptation should be supported by means of an aid from the restructuring fund provided that the Member State approves the business plan providing for the adaptation. Member States concerned should ensure an equitable break down of the aid available among the full-time refiners on their territory.
- (13) Some specific situations in certain Member States should be taken care of by means of an aid from the restructuring fund provided that it forms part of the national restructuring programme.
- (14) As it is to be funded over a period of three years, the restructuring fund does not dispose from the outset of all the necessary financial means. Rules as to the limitation of the granting of the aid should therefore be established.
- (15) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽²⁾.
- (16) The Commission should be authorised to adopt necessary measures to solve specific practical problems in the case of emergency.
- (17) The restructuring fund will finance measures which, due to the nature of the restructuring mechanism, do not fall under the categories of expenditure referred to in Article 3(1) of Regulation (EC) No 1290/2005. It is therefore necessary to amend that Regulation accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Temporary restructuring fund

1. The temporary fund for the restructuring of the sugar industry in the Community (hereinafter referred to as 'restructuring fund') is hereby established.

The restructuring fund shall form part of the Guarantee Section of the European Agricultural Guidance and Guarantee Fund. As from 1 January 2007 it shall form part of the European Agricultural Guarantee Fund (EAGF).

2. The restructuring fund shall finance the expenditure resulting from the measures provided for under Articles 3, 6, 7, 8 and 9.

3. The temporary restructuring amount referred to in Article 11 shall be revenue assigned to the restructuring fund in accordance with Article 18(2) of Regulation (EC, Euratom) No 1605/2002.

⁽¹⁾ OJ L 277, 21.10.2005, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

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Any amount that may be available in the restructuring fund after the financing of the expenditure referred to in paragraph 2 shall be assigned to the EAGF.

4. This Regulation shall not apply to the outermost regions referred to in Article 299(2) of the Treaty.

*Article 2***Definitions**

For the purposes of this Regulation, the following definitions shall apply:

- 1) 'isoglucose' means the product obtained from glucose or its polymers with a content by weight in the dry state of at least 10 % fructose;
- 2) 'inulin syrup' means the immediate product obtained by hydrolysis of inulin or oligofructoses, containing in the dry state at least 10 % fructose in free form or as sucrose, and expressed as sugar/isoglucose equivalents;
- 3) 'agreement within the trade' means one of the following:
 - (a) an agreement concluded at Community level, prior to the conclusion of any delivery contract, between a group of national undertakings' organisations on the one hand and a group of national sellers' organisations on the other;
 - (b) an agreement concluded, prior to the conclusion of any delivery contract, between undertakings or a undertakings' organisation recognised by the Member State concerned on the one hand and a sellers' association recognised by the Member State concerned on the other;
 - (c) in the absence of any agreement as referred to in point (a) or (b), the law on companies and the law on cooperatives, in so far as they govern the delivery of sugar beet by the shareholders or members of a company or cooperative manufacturing sugar;
 - (d) in the absence of any agreement as referred to in point (a) or (b), the arrangements existing before the conclusion of any delivery contract, provided the sellers accepting the arrangement supply at least 60 % of the total beet bought by the undertaking for the manufacture of sugar in one or more factories;
- 4) 'marketing year' means the period beginning on 1 October and ending on 30 September of the following year. By way of exception, the marketing year 2006/2007 begins on 1 July 2006;
- 5) 'full time refiner' means a production unit:
 - of which the sole activity consists of refining imported raw cane sugar
 - or
 - which refined in the marketing year 2004/2005 a quantity of at least 15 000 tonnes of imported raw cane sugar;
- 6) 'quota' means any quota for the production of sugar, isoglucose and inulin syrup allocated to an undertaking in accordance with Articles 7(2), 8(1), 9(1) and (2) and Article 11 of Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector ⁽¹⁾.

⁽¹⁾ See page 1 of this Official Journal.

▼B*Article 3***Restructuring aid**

1. ►**M1** Any undertaking producing sugar, isoglucose or inulin syrup to which a quota has been allocated by 1 July 2006, or by 31 January 2007 in the case of Bulgaria and Romania, shall be entitled to a restructuring aid per tonne of quota renounced, provided that during one of the marketing years 2006/2007, 2007/2008, 2008/2009 and 2009/2010 it: ◀

- (a) renounces the quota assigned by it to one or more of its factories and fully dismantles the production facilities of the factories concerned;
- (b) renounces the quota assigned by it to one or more of its factories, partially dismantles the production facilities of the factories concerned and does not use the remaining production facilities of the factories concerned for the production of products covered by the common market organisation for sugar,

or

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- (c) renounces a part or the total of the quota assigned by it to one or more of its factories and does not use the production facilities of the factories concerned for refining raw cane sugar.

This last condition shall not apply in respect of:

- the sole processing plant in Slovenia,
- the sole beet processing plant in Portugal,

existing on 1 January 2006 and full-time refiners as defined in point 13 of Article 2 of Regulation (EC) No 318/2006.

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For the purpose of this Article, dismantling of production facilities during the marketing year 2005/2006 shall be deemed to take place in the marketing year 2006/2007.

2. Restructuring aid shall be granted in respect of the marketing year for which the quotas are renounced in accordance with paragraph 1 and only for the quantity of quota renounced and not reallocated.

The quota may only be renounced after consultations conducted in the framework of the relevant agreements within the trade.

3. Full dismantling of production facilities shall require:

- (a) the definitive and total cessation of the production of sugar, isoglucose and inulin syrup by the production facilities concerned;
- (b) the closure of the factory or the factories and the dismantling of the production facilities thereof within the period referred to in point (d) of Article 4(2),

and

- (c) the restoring of the good environmental conditions of the factory site and the facilitation of redeployment of the workforce within the period referred to in point (f) of Article 4(2). Member States may require the undertakings referred to in paragraph 1 to make commitments which go beyond the statutory minimum requirements imposed by Community law. However, such commitments shall not restrict the operation of the restructuring fund as an instrument.

4. Partial dismantling of production facilities shall require:

- (a) the definitive and total cessation of the production of sugar, isoglucose and inulin syrup by the production facilities concerned;

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- (b) the dismantling of the production facilities that will not be used for the new production and were destined and used for the production of the products mentioned under (a), within the period referred to in point (e) of Article 4(2);
- (c) the restoring of the good environmental conditions of the factory site and the facilitation of redeployment of the workforce within the period referred to in point (f) of Article 4(2), insofar as necessitated by the cessation of the production of the products mentioned under (a). Member States may require the undertakings referred to in paragraph 1 to make commitments which go beyond the statutory minimum requirements imposed by Community law. However, such commitments shall not restrict the operation of the restructuring fund as an instrument.

5. The amount of restructuring aid per tonne of renounced quota shall be:

(a) in the case referred to in point (a) of paragraph 1:

- EUR 730,00 for the marketing year 2006/2007,
- EUR 730,00 for the marketing year 2007/2008,
- EUR 625,00 for the marketing year 2008/2009,
- EUR 520,00 for the marketing year 2009/2010;

(b) in the case referred to in point (b) of paragraph 1:

- EUR 547,50 for the marketing year 2006/2007,
- EUR 547,50 for the marketing year 2007/2008,
- EUR 468,75 for the marketing year 2008/2009,
- EUR 390,00 for the marketing year 2009/2010;

(c) in the case referred to in point (c) of paragraph 1:

- EUR 255,50 for the marketing year 2006/2007,
- EUR 255,50 for the marketing year 2007/2008,
- EUR 218,75 for the marketing year 2008/2009,
- EUR 182,00 for the marketing year 2009/2010.

6. ►**M2** 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 concluded a delivery contract with the undertaking concerned 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. ◀

Member States shall grant the aid on the basis of objective and non-discriminatory criteria, taking into account the losses resulting from the restructuring process.

The amount resulting from the application of the first and second subparagraphs shall be deducted from the applicable amount referred to in paragraph 5.

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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 sugar quota renounced.

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This additional payment shall also be made for the 2009/2010 marketing year where the undertaking concerned renounces a part or the totality of the sugar quota allocated to it as from that marketing year provided that the application is submitted by 31 January 2008.

8. This paragraph shall apply to:

- (a) undertakings having renounced under the restructuring scheme in the 2006/2007 or 2007/2008 marketing year a part or the totality of the quota allocated to them; and
- (b) growers concerned by the quota renunciation referred to in point (a).

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

The same shall apply in respect of inulin syrup producers and chicory growers. The latter shall, for that purpose, be deemed as being eligible for the additional payment referred to in paragraph 7.

▼B*Article 4***Application for restructuring aid**

1. Applications for restructuring aid shall be submitted to the Member State concerned by 31 January preceding the marketing year during which the quota is to be renounced.

However, applications in respect of the marketing year 2006/2007 shall be submitted by 31 July 2006.

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1a. Undertakings may submit an additional application for restructuring aid to renounce, as from the marketing year 2008/2009, a further part or the totality of the quota allocated to them, until 31 March 2008 in the case where:

- applications at growers' initiative in accordance with Article 4a or of an undertaking in accordance with paragraph 1 of this Article to renounce quota as from the marketing year 2008/2009 have been granted, and
- the quota renounced accordingly corresponds at least to the withdrawal percentage set on 16 March 2007 by Article 1(1) or Article 1(2) 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 Council Regulation (EC) No 318/2006 ⁽¹⁾.

However, undertakings situated in Member States where the withdrawal percentage set at the date specified in the second indent of the first subparagraph is 0 may make use of the possibility stipulated in that subparagraph independently of whether applications at growers' initiative or by themselves were submitted previously.

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2. Applications for restructuring aid shall include:

- (a) a restructuring plan;
- (b) a confirmation that the restructuring plan has been prepared in consultation with the sugar beet, cane and chicory growers;
- (c) a commitment to renounce the relevant quota in the marketing year concerned;

⁽¹⁾ OJ L 78, 17.3.2007, p. 20.

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- (d) in the case referred to in Article 3(1)(a), a commitment to fully dismantle the production facilities within the period to be determined by the Member State concerned;
- (e) in the case referred to in Article 3(1)(b), a commitment to partially dismantle the production facilities within the period to be determined by the Member State concerned and not to use the production site and the remaining production facilities for the production of products covered by the common market organisation for sugar;
- (f) in the cases referred to in Article 3(1)(a) and Article 3(1)(b), a commitment to meet the requirements provided for in, respectively, Article 3(3)(c) and Article 3(4)(c) within the period to be determined by the Member State concerned;
- (g) in the case referred to in Article 3(1)(c), if applicable, a commitment not to use the production facilities for refining raw sugar.

The respect of the commitments under points (c) to (g) shall be subject to a decision granting the aid as referred to in Article 5(1).

3. The restructuring plan referred to in paragraph 2(a) shall include at least the following elements:

- (a) a presentation of the purposes and the actions foreseen, demonstrating a sound economic balance between them and their consistency with the objectives of the restructuring fund and of the rural development policy in the region concerned as approved by the Commission;
- (b) the aid to be granted to growers of sugar beet, cane or chicory and, if appropriate, machinery contractors in accordance with Article 3(6);
- (c) a complete technical description of the production facilities concerned;
- (d) a business plan detailing the modalities, timetable and costs for the closure of the factory or factories and the full or partial dismantling of the production facilities;
- (e) if appropriate, the scheduled investments;
- (f) a social plan detailing the actions planned in particular with respect to re-training, redeployment and early retirement of the workforce concerned and, if applicable, national specific requirements provided for in accordance with Article 3(3)(c) or Article 3(4)(c);
- (g) an environmental plan detailing the actions planned in particular to respect mandatory environmental obligations and, if applicable, national specific requirements provided for in accordance with Article 3(3)(c) or Article 3(4)(c);
- (h) a financial plan detailing all the costs in relation to the restructuring plan.

▼M2*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) and 3(7), accompanied by a commitment to cease delivery of a certain amount of quota beet or cane to the undertaking with which he has concluded a delivery contract in the preceding marketing year.

By way of derogation from the first subparagraph, in the framework of an agreement within the trade it may be decided that only growers who

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have concluded delivery contracts in the preceding marketing year with one and the same undertaking shall be entitled to submit an application as referred to in the first subparagraph provided that:

- the quota allocated to that undertaking corresponds to at least 10 % of the remaining sugar quota fixed for the Member State concerned in Annex III to Regulation (EC) No 318/2006, and
- the amount of sugar quota to be renounced by that undertaking plus the amount of sugar quota already renounced by all undertakings within the Member State concerned as a consequence of previous applications in accordance with Article 4 of Regulation (EC) No 320/2006 correspond to at least 60 % of the sugar quota fixed for that Member State in Annex III to Regulation (EC) No 318/2006 on 20 February 2006. For those Member States which were not members of the Community on 1 July 2006, the reference to the said Annex III shall concern the version applicable on the date of their accession to the Community.

2. The applications referred to in paragraph 1 shall be submitted by 30 November 2007. Applications may be submitted as from the 30 October 2007.

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 the total amount of quota affected by the applications received within 10 working days following the deadline for submission as referred to in paragraph 2 to the Commission and the undertakings concerned.

4. By 15 March 2008, the Member State concerned shall, on the basis of the chronological order referred to in paragraph 3 and after the verification provided for in the fourth indent of Article 5(2), grant growers' applications corresponding to up to 10 % of the sugar quota allocated to each undertaking and shall reduce in proportion the sugar quota of the undertaking concerned in accordance with Article 11(4) of Regulation (EC) No 318/2006. However, in the case referred to in the second subparagraph of paragraph 1 of this Article, the Member States concerned shall, under the same conditions, grant growers' applications corresponding up to 10 % of the remaining sugar quota fixed for this Member State in Annex III to Regulation (EC) No 318/2006.

In the case where any of the limits of 10 % referred to in the first subparagraph is reached, the Member State concerned shall reject the applications above this limit according to the chronological order of submission.

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

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 and contractors, 10 % of the relevant aid amount fixed in Article 3(5)(c) and for growers 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 third subparagraph of paragraph 4 of this Article.

6. Paragraphs 4 and 5 of this Article shall not apply where an undertaking's application in accordance with Article 4 has been granted as from the marketing year 2008/2009 renouncing an amount of quota higher than the quota affected by the growers' applications. The same shall apply in any case, where an undertaking's application has been granted as from the marketing year 2008/2009 renouncing more than 10 % of its quota.

▼B*Article 5***Decision on the restructuring aid and controls**

1. By the end of February preceding the marketing year referred to in Article 3(2), Member States shall decide on the granting of the restructuring aid. However, the decision for the marketing year 2006/2007 shall be adopted by 30 September 2006.

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In the case of submission of additional applications for restructuring aid in accordance with Article 4(1a), Member States shall decide, after the verification provided for in the fourth indent of Article 5(2) on the granting of that aid linked to these applications by the end of April 2008.

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2. The restructuring aid shall be granted if the Member State has established after thorough verification that:

- the application contains the elements referred to in Article 4(2),
 - the restructuring plan contains the elements referred to in Article 4(3),
 - the measures and actions described in the restructuring plan are in conformity with the relevant Community and national legislation;
- and
- the necessary financial resources are available in the restructuring fund, on the basis of information obtained from the Commission.

3. If one or more of the conditions laid down in the first three indents of paragraph 2 are not respected, the application for the restructuring aid shall be returned to the applicant. The applicant shall be informed of the conditions that are not respected. The applicant may then either withdraw or complete his application.

4. Notwithstanding the control obligations referred to in Regulation (EC) No 1290/2005, Member States shall monitor, control and verify the implementation of the restructuring aid as approved by it.

*Article 6***Aid for diversification**

1. An aid for diversification measures in regions affected by the restructuring of the sugar industry may be granted in any Member State in relation to the sugar quota renounced by undertakings established in that Member State in one of the marketing years 2006/2007, 2007/2008, 2008/2009 and 2009/2010.

2. The total amount of aid available to a Member State shall be established on the basis of:

- EUR 109,50 per tonne of sugar quota renounced in the marketing year 2006/2007,
- EUR 109,50 per tonne of sugar quota renounced in the marketing year 2007/2008,
- EUR 93,80 per tonne of sugar quota renounced in the marketing year 2008/2009,
- EUR 78,00 per tonne of sugar quota renounced in the marketing year 2009/2010.

3. Member States which decide to grant aid for diversification referred to in paragraph 1 or transitional aid referred to in Article 9 shall establish national restructuring programmes detailing the diversifi-

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cation measures to be undertaken in the regions concerned and inform the Commission of these programmes.

4. Notwithstanding paragraph 5, to be eligible for aid referred to in paragraph 1 diversification measures shall correspond to one or more of the measures envisaged under Axis 1 and Axis 3 of Regulation (EC) No 1698/2005.

Member States shall fix criteria in order to distinguish the measures for which an aid for diversification may be granted from the measures for which Community support may be granted under Regulation (EC) No 1698/2005.

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The aid provided for in paragraph 1 of this Article shall not be higher than the amounts and rates of support laid down in the Annex to Regulation (EC) No 1698/2005.

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5. Diversification measures which differ from the measures envisaged under Axis 1 and Axis 3 of Regulation (EC) No 1698/2005 shall be eligible for the aid referred to in paragraph 1 provided that they are in conformity with the criteria set out in Article 87(3) of the Treaty and, in particular, with the aid intensities and the eligibility criteria laid down in the Commission guidelines on State aid in the agricultural sector.

6. Member States shall not grant national aid in respect of diversification measures provided for in this Article. However, if the ceilings referred to in the third subparagraph of paragraph 4 were to permit the granting of an aid for diversification of 100 %, the Member State concerned shall contribute at least 20 % of the eligible expenditure. In this case, Articles 87, 88 and 89 of the Treaty shall not apply.

*Article 7***Additional aid for diversification**

1. The total amount of aid available to a Member State in accordance with Article 6(2) shall be increased by:

- 50 % once the national sugar quota fixed in Annex III of Regulation (EC) No 318/2006 for that Member State has been renounced by at least 50 % but less than 75 %,
- another 25 % once the national sugar quota fixed in Annex III of Regulation (EC) No 318/2006 for that Member State has been renounced by at least 75 % but less than 100 %,
- another 25 % once the national sugar quota fixed in Annex III of Regulation (EC) No 318/2006 for that Member State has been completely renounced.

Any increase shall be available in the marketing year in which the quantity of the national sugar quota renounced reaches, as the case may be, 50, 75 or 100 %.

2. The Member State concerned shall decide whether the aid corresponding to the increase laid down in paragraph 1 shall be granted for diversification measures referred to in Article 6(1) and/or to growers of sugar beet or cane giving up their production in the regions affected by the restructuring. The aid to growers shall be granted according to objective and non-discriminatory criteria.



Article 8

Transitional aid to full-time refiners

1. A transitional aid shall be granted to full-time refiners so as to allow them to adapt to the restructuring of the sugar industry in the Community.

2. To this end, an amount of EUR 150 million shall be made available for the total of the four marketing years 2006/2007, 2007/2008, 2008/2009 and 2009/2010.

The amount fixed in the first subparagraph shall be divided as follows:

- EUR 94,3 million for full-time refiners in the United Kingdom,
- EUR 24,4 million for full-time refiners in Portugal,
- EUR 5,0 million for full-time refiners in Finland,
- EUR 24,8 million for full-time refiners in France,
- EUR 1,5 million for full-time refiners in Slovenia.

3. The aid shall be granted on the basis of a business plan approved by the Member State relating to the adaptation of the situation of the full-time refiner concerned to the restructuring of the sugar industry.

Member States shall grant the aid on the basis of objective and non-discriminatory criteria.

Article 9

Transitional aid to certain Member States

In the context of the national restructuring programme referred to in Article 6(3):

- (a) an aid of not more than EUR 9 million shall be granted in Austria for investments in collection centres of sugar beet and other logistical infrastructure needed as a consequence of restructuring;
- (b) an aid of not more than EUR 5 million shall be granted in Sweden for the direct or indirect benefit of sugar beet growers in Gotland and Öland giving up sugar production as part of the national restructuring process.

Article 10

Financial limits

1. Any aid referred to in Articles 3, 6, 7, 8 and 9 claimed for any of the marketing years 2006/2007, 2007/2008, 2008/2009 and 2009/2010 shall be granted only within the limit of the appropriations available in the restructuring fund.

2. Where, on the basis of the applications submitted for a marketing year and found eligible by the Member State concerned, the overall amount of aid to be granted exceeds the limit for that marketing year, the granting of aid, shall be based on the chronological order of the lodging of applications for aid ('first come, first served' principle).

3. The aids referred to in Articles 6, 7, 8 and 9 shall be independent of the aid referred to in Article 3.

4. The restructuring aid referred to in Article 3 shall be paid in two instalments:

- 40 % in June of the marketing year referred to in Article 3(2),

and

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— 60 % in February of the following marketing year.

However, the Commission may decide to split the instalment referred to in the second of the preceding indents into two payments, as follows:

— a first payment in February of the following marketing year,

and

— a second payment at a later date when the necessary financial resources have been paid into the restructuring fund.

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5. The Commission may decide to postpone payment of the aids referred to in Articles 6, 7, 8 and 9 until the necessary financial resources have been paid into the restructuring fund or, in the case where the necessary financial resources are available in that fund, to advance the dates for the payment of the aids.

▼B*Article 11***Temporary restructuring amount**

1. A temporary restructuring amount shall be paid per marketing year per tonne of quota by those undertakings to which a quota has been allocated.

Quotas that have been renounced by an undertaking as from a given marketing year in accordance with Article 3(1) shall not be subject to the payment of the temporary restructuring amount for this marketing year and subsequent marketing years.

2. The temporary restructuring amount for sugar and inulin syrup shall be set at:

— EUR 126,40 per tonne of quota for the marketing year 2006/2007,

— EUR 173,8 per tonne of quota for the marketing year 2007/2008,

— EUR 113,3 per tonne of quota for the marketing year 2008/2009.

The temporary restructuring amount per marketing year for isoglucose shall be set at an amount equal to 50 % of the amounts fixed in the first subparagraph.

3. Member States shall be liable to the Community for the temporary restructuring amount to be collected on their territory.

Member States shall pay the temporary restructuring amount to the restructuring fund in two instalments, as follows:

— 60 % by 31 March of the marketing year concerned,

and

— 40 % by 30 November of the following marketing year.

4. If the temporary restructuring amount is not paid before the due date, the Commission shall, after consultation of the Committee on the Agricultural Funds, deduct a sum equivalent to the unpaid restructuring amount from the monthly advances on the provision for expenditure effected by the Member State concerned, referred to in Article 14(1) and Article 15(2) of Council Regulation (EC) No 1290/2005. Before taking its decision, the Commission shall give the Member State the opportunity to submit its observations within a period of two weeks. The provisions of Article 14 of Council Regulation (EC) No 2040/2000 ⁽¹⁾ shall not apply.

⁽¹⁾ OJ L 244, 29.9.2000, p. 27.

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5. The totality of the temporary restructuring amounts to be paid in accordance with paragraph 3 shall be allocated by the Member State among the undertakings on its territory according to the allocated quota during the marketing year concerned.

Undertakings shall pay the temporary restructuring amounts in two instalments, as follows:

— 60 % by the end of February of the marketing year concerned,

and

— 40 % by 31 October of the following marketing year.

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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 which renounce a percentage of their quota of at least that 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 of this paragraph 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.

▼B*Article 12***Detailed rules**

Detailed rules for the implementation of this Regulation and, in particular as regards the requirements provided for in Article 3 and the measures necessary to resolve transitional difficulties, shall be adopted in accordance with the procedure referred to in Article 13 of Regulation (EC) No 1258/1999, or, as from 1 January 2007, referred to in Article 41(2) of Regulation (EC) No 1290/2005.

*Article 13***Specific measures**

Measures which are both necessary and justifiable in an emergency, in order to resolve practical specific problems shall be adopted in accordance with the procedure referred to in Article 13 of Regulation (EC) No 1258/1999 or, as from 1 January 2007, that referred to in Article 41(2) of Regulation (EC) No 1290/2005.

Such measures may derogate from certain parts of this Regulation, but only to the extent that, and for such a period, as is strictly necessary.

*Article 14***Amendments to Regulation (EC) No 1290/2005**

Regulation (EC) No 1290/2005 is hereby amended as follows:

1) The following point shall be added to Article 3(1):

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‘(e) restructuring aid, aid for diversification, additional aid for diversification and transitional aid provided for in Articles 3, 6, 7, 8 and 9 of Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community (*).

(*) OJ L 58, 28.2.2006, p. 42.’;

2) Article 34 shall be amended as follows:

(a) the following point shall be added to paragraph 1:

‘(c) temporary restructuring amounts collected under Regulation (EC) No 320/2006.’

(b) in paragraph 2 the words ‘The sums referred to in paragraph 1(a) and (b)’ shall be replaced by ‘The sums referred to in paragraphs 1(a), (b) and (c)’.

(c) the following paragraph shall be added:

‘(3) The provisions of this Regulation shall apply *mutatis mutandis* to assigned revenue referred to in paragraph 1 of this Article.’.

Article 15

Entry into force

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

It shall apply from 1 July 2006. However, Articles 12 and 13 shall apply from the date of entry into force of this Regulation.

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