COUNCIL REGULATION (EEC) No 1111/77

of 17 May 1977

laying down common provisions for isoglucose

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas the recent industrial development in several Member States of the Community of the production of glucose syrup with a high fructose content, hereinafter referred to as 'isoglucose', calls for the introduction of common measures in respect of this product; whereas in view of the basic products from which it is obtained and of the use to which it is put, it is advisable that these measures should be grouped together in a specific Regulation;

Whereas the operation and development of the common market in agricultural products must be accompanied by the establishment of a common agricultural policy to include, in particular, a common organization of the agricultural markets which may take various forms depending on the product concerned; whereas isoglucose is a processed agricultural product which is obtained from starch processed to glucose; whereas isoglucose is a direct substitute for liquid sugar obtained from sugar-beet or cane;

Whereas the creation of a single Community market for isoglucose involves the introduction of a common trading system at the external frontiers of the Community; whereas a trading system including import levies and export refunds serves to stabilize the Community market by preventing, in particular, price fluctuations on the world market from affecting prices ruling within the Community; whereas, therefore, provision should be made for the charging of a levy on imports from third countries and the possibility of granting a refund on exports to such countries; whereas account should be taken of the need to provide some measure of protection for the relevant Community processing industry;

Whereas, in addition to the above system and to the extent necessary for its proper working, provision should be made for regulating or, when the situation on the market so requires, prohibiting the use of inward processing arrangements;

Whereas it must be made possible for the competent authorities to keep a constant watch on movements in trade with third countries in order to enable them to assess the trends thereof and, where appropriate, apply such measures provided for in this Regulation as may prove necessary; whereas, to this end, provision should be made for a system of import and export licences the issue of which is conditional on the provision of security by way of guarantees that the operation for which the licence was requested will be carried out;

Whereas the levy system makes it possible to dispense with all other protective measures at the external frontiers of the Community; whereas, however, the common levy machinery may in exceptional circumstances prove defective; whereas in such cases, so as not to leave the Community market without defence against disturbances which may arise therefrom after the import barriers which existed previously have been removed, the Community should be empowered to take all necessary measures without delay;

Whereas, being a substitute product in direct competition with liquid sugar, which, like all beet or cane sugar, is subject to stringent production constraints, isoglucose therefore enjoys an economic advantage, and since the Community has a sugar surplus, it is necessary to export corresponding quantities of sugar to third countries; whereas there should, therefore, be provision for a suitable production levy on isoglucose to contribute to export costs;

Whereas the establishment of a single market would be jeopardized by the granting of certain kinds of aid; whereas, therefore, the provisions of the Treaty which allow the assessment of aid granted by Member States and the prohibition of aid which is incompatible with the common market should be made to apply to isoglucose;

(1) OJ No C 93, 18. 4. 1977, p. 11.
(2) OJ No C 77, 30. 3. 1977, p. 15.

Whereas the levy system established by this Regulation is complementary to that established by Council Regulation (EEC) No 3330/74 of 19 December 1974 on the common organization of the market in sugar [1], as last amended by Regulation (EEC) No 1110/77 [2]; whereas the envisaged levy on the production of isoglucose is therefore analogous to that provided for in Article 27 of Regulation (EEC) No 3330/74 and, consequently, constitutes own resources of the Communities within the meaning of Article 2 of the Council Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources [3];

Whereas the transition to the system established by this Regulation must be effected as smoothly as possible; whereas, to this end, certain transitional measures may prove necessary; whereas, therefore, provision should be made for the possibility of adopting appropriate measures;

Whereas the common measures applicable to isoglucose must, at the same time, take appropriate account of the objectives set out in Articles 39 and 110 of the Treaty;

Whereas, in order to facilitate implementation of the proposed measures, a procedure should be provided for establishing close cooperation between Member States and the Commission within a management committee,

HAS ADOPTED THIS REGULATION:

Article 1

The common provisions for isoglucose shall comprise a trading system and a production levy system and cover the following products:

CCT heading No	Description of goods
17.02 D I	Isoglucose
17.05 C I	Flavoured or coloured isoglucose

For the purposes of this Regulation isoglucose means the syrup obtained from glucose syrups with a content by weight in the dry state of:

— at least 10 % frectose,

— at least 1 % in total of oligosaccharides and polysaccharides.

(1) OJ No L 359, 31. 12. 1974, p. 1.
(2) See page 1 of this Official Journal.
(3) OJ No L 94, 28. 4. 1970, p. 19.

TITLE I

Trade with third countries

Article 2

1. Imports or exports into or out of the Community of the products listed in Article 1 shall be made conditional upon the submission of an import or export licence issued by Member States to any applicant irrespective of the place of his establishment in the Community.

Where the refund is fixed in advance, the advance fixing shall be noted on the licence, which serves as a supporting document for such advance fixing. The licence shall be valid throughout the Community.

The issue of a licence shall be conditional on the lodging of a deposit guaranteeing that importation or exportation will be effected during the period of validity of the licence; this deposit shall be forfeited in whole or in part if the transaction is not effected, or is only partially effected, within that period.

2. The period of validity of licences and other detailed rules for the application of this Article, which may include, in particular, a time limit for the issue of licences, shall be adopted in accordance with the procedure laid down in Article 12.

Article 3

1. A levy, consisting of a variable component and a fixed component shall be charged on imports of the products listed in Article 1. The variable component shall be equal, for every 100 kilograms of dry matter, to one hundred times the basic amount of the import levy fixed in accordance with Article 15 (5) of Regulation (EEC) No 3330/74 for the products listed in Article 1 (1) (d) of the said Regulation and shall apply with effect from the first day of each month.

The fixed component shall be equal, for every 100 kilograms of dry matter, to one-tenth of the fixed component as determined in accordance with Article 14 (1) B of Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals [4], as last amended by Regulation (EEC) No 3138/76 [5], for the purposes of fixing the import levy on products falling within subheading 17.02 B II of the Common Customs Tariff.

2. The levy to be charged shall be that applicable on the day of importation.

(4) OJ No L 281, 1. 11. 1975, p. 1.
(5) OJ No L 354, 24. 12. 1976, p. 1.

3. Detailed rules for the application of this Article shall be adopted, as necessary, in accordance with the procedure laid down in Article 12.

4. The levies referred to in this Article shall be fixed each month by the Commission.

Article 4

1. Provision may be made for an export refund for the products listed in Article 1.

The level of the refund shall be determined, per 100 kilograms of dry matter, taking into account the following, in particular :

(a) the export refund applicable to the products falling within subheading 17.02 B II a) of the Common Customs Tariff ;

(b) any production refund granted where appropriate for the basic product used in the manufacture of the products referred to in subparagraph (a) ;

(c) the production levy referred to in Article 9 ;

(d) the economic aspects of the proposed exportation.

2. The refund shall be the same for the entire Community. It may be varied according to destination.

The refund shall be granted at the request of the party concerned.

Refunds shall be fixed at intervals in accordance with the procedure laid down in Article 12. Where necessary, the Commission may, at the request of a Member State or on its own initiative, alter the refunds in the intervening period.

3. The amount of the refund shall be that applicable on the day of exportation.

However, the refund may be fixed in advance in accordance with the procedure laid down in Article 12.

4. In cases of extreme urgency, the Commission may, after examining the situation, decide on the basis of all the information available to it, to suspend advance fixing for a maximum of three working days. Applications for certificates accompanied by applications for advance fixing lodged during the period of suspension shall be rejected.

5. The detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 12.

Article 5

To the extent necessary for the proper functioning of the common measures for isoglucose, the Council, acting by a qualified majority on a proposal from the Commission, may prohibit, in whole or in part, the use of inward processing arrangements in respect of the products listed in Article 1.

Article 6

1. The general rules for the interpretation of the Common Customs Tariff and the special rules for its application shall apply to the tariff classification of products covered by this Regulation ; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided in this Regulation or where derogation therefrom is decided upon by the Council, acting by a qualified majority on a proposal from the Commission, the following shall be prohibited :

— the levying of any customs duty on the products listed in Article 1,

— the levying of any charge having an effect equivalent to a customs duty,

— the application of any quantitative restriction or measure having equivalent effect.

The restriction of import or export licences to a specified category of those entitled to receive them shall be one of the measures considered as having an effect equivalent to a quantitative restriction.

Article 7

1. If, by reason of imports or exports, the Community market in one of the products listed in Article 1 experiences or is threatened with serious disturbances which are likely to endanger the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased to exist.

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt detailed rules for the application of this paragraph and define the cases in which and the limits within which Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures ; the measures shall be communicated to the Member States and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within 24 hours following receipt of the request.

3. The measures decided upon by the Commission may be referred to the Council by any Member State within a period of three working days following the day on which they were communicated. The Council shall meet without delay. Acting by a qualified majority, it may either amend or repeal the measures in question.

TITLE II

System of levies

Article 8

1. Article 9 shall be applicable to the periods corresponding to the 1977/78 and 1978/79 sugar years.

2. The Council shall adopt before 1 January 1979, in accordance with the procedure laid down in Article 43 (2) of the Treaty, the system applicable from 1 July 1979.

Article 9

1. Member States shall charge a production levy on manufacturers of isoglucose.

2. The amount of the levy, per 100 kilograms of dry matter, shall be equal to the amount of the production levy provided for in Article 27 of Regulation (EEC) No 3330/74 for the same period to which the latter amount applies.

However, for the period 1 July 1977 to 30 June 1978, the amount of the levy referred to in paragraph 1 may not exceed the amount of five units of account per 100 kilograms of dry matter. This latter amount shall apply when the amount of the production levy provided for in Article 27 of Regulation (EEC) No 3330/74 exceeds five units of account per 100 kilograms of white sugar for the same period.

3. The detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 12.

TITLE III

General provisions

Article 10

Member States and the Commission shall communicate to each other the information necessary for implementing this Regulation. Rules for the communication and distribution of such information shall be adopted in accordance with the procedure laid down in Article 12.

Article 11

1. A Management Committee for Isoglucose (hereinafter called 'the Committee') shall be established, consisting of representatives of Member States presided over by a representative of the Commission.

2. Within the Committee the votes of Member States shall be weighted in accordance with Article 148 (2) of the Treaty. The chairman shall not vote.

Article 12

1. Where the procedure laid down in this Article is to be followed, the chairman shall refer the matter to the Committee either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall deliver its opinion on such measures within a time limit to be set by the chairman according to the urgency of the questions under consideration. An opinion shall be adopted by a majority of 41 votes.

3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall forthwith be communicated to the Council by the Commission. In that event the Commission may defer application of the measures which it has adopted for not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within one month.

Article 13

The Committee may consider any other question referred to it by its chairman either on his own initiative or at the request of the representative of a Member State.

Article 14

The provisions concerning the financing of the common agricultural policy shall apply to the products listed in Article 1.

Article 15

Goods listed in Article 1 which are manufactured or obtained from products to which Articles 9 (2) and 10 (1) of the Treaty do not apply shall not be admitted to free circulation within the Community.

Article 16

Save as otherwise provided in this Regulation, Articles 92, 93 and 94 of the Treaty shall apply to the production of and trade in the products listed in Article 1.

Article 17

This Regulation shall be applied so that appropriate account is taken, at the same time, of the objectives set out in Articles 39 and 110 of the Treaty.

Article 18

Should transitional measures be necessary to facilitate transition to the system established by this Regulation, in particular if the introduction of the new system on the date provided for would give rise to substantial difficulties, such measures shall be adopted in accordance with the procedure laid down in Article 12. They shall be applicable until 30 June 1978 at the latest.

Article 19

The Common Customs Tariff annexed to Regulation (EEC) No 950/68 shall be amended as follows :

(a) in Chapter 17, Additional Note 2 shall become Note 3 and the following shall be added as Note 2 :

'2. For the purposes of subheadings 17.02 D I and 17.05 C I, "isoglucose" means the syrup obtained from glucose syrup with a content by weight in the dry state of :

— at least 10 % fructose, and

— at least 1 % in total of oligosaccharides and polysaccharides' ;

(b) subheadings 17.02 D and 17.05 C shall be replaced by the following :

CCT heading No	Description	Rate of duty	
		autonomous % or levy (L)	conventional %
1	2	3	4
17.02	D. Other sugars and syrups :		
	I. Isoglucose	80 (L)	—
	II. Other	80 (L)	—
17.05	C. Other :		
	I. Isoglucose	67 (L)	—
	II. Other	67 (L)	—

Article 20

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

It shall apply from 1 July 1977, with the exception of Article 18 thereof, which shall apply from the entry into force of this Regulation.

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

Done at Brussels, 17 May 1977.

For the Council

The President

J. SILKIN