COUNCIL REGULATION (EEC) No 1293/79

of 25 June 1979

amending Regulation (EEC) No 1111/77 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 Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the fact that the European Parliament has been consulted,

Having regard to the opinion of the Economic and Social Committee,

Whereas Articles 8 and 9 of Council Regulation (EEC) No 1111/77 of 17 May 1977 laying down common provisions for isoglucose [1], as last amended by Regulation (EEC) No 1298/78 [2], provide for a system of production levies applicable until 30 June 1980;

Whereas the Court of Justice of the European Communities delivered a judgment on 25 October 1978 stating that Regulation (EEC) No 1111/77 is invalid inasmuch as Articles 8 and 9 thereof impose a levy on the production of isoglucose of five units of account per 100 kilograms of dry matter for the period corresponding to the 1977/78 sugar year;

Whereas the European Parliament which was consulted on 16 March 1979 on the Commission proposal did not deliver its opinion at its May part-session; whereas it has referred the matter to the Assembly for its opinion;

Whereas the judgment of the Court of Justice must be implemented before too long; whereas it is extremely important for the public that the isoglucose arrangements be adopted before the beginning of the sugar year on 1 July 1979, the Council should take a decision on the matter without prejudice to the new measures it might adopt further to the opinion which the Assembly might deliver subsequently;

Whereas the Court decided that this levy system infringed the general principle of non-discrimination within the meaning of Article 40 (3) of the Treaty; whereas the discrimination arises from the fact that the isoglucose levy applies to overall production but the sugar levy applies only to production exceeding the basic quota without exceeding the maximum quota;

Whereas the most appropriate means for avoiding inequality of treatment is to subject isoglucose production to rules analogous to those applying to sugar production until 30 June 1980; whereas this is particularly necessary in view of the restricted outlets at present available on the market for sweeteners; whereas this implies, therefore, the introduction of a temporary system for isoglucose production analogous to that applied to sugar production by virtue of Council Regulation (EEC) No 3330/74 of 19 December 1974 on the common organization of the market in sugar [3], as last amended by Regulation (EEC) No 1396/78 [4];

Whereas, since the manufacture of isoglucose began in the Community only in 1974/75, it is fair to allot to each manufacturer a basic quota according to his output during the most recent possible period, namely his output in the period 1 November 1978 to 30 April 1979; whereas it seems appropriate when fixing such quotas, for reasons of economic fairness, to take into account the technical production capacities per annum of the undertakings in question; whereas basic quotas should also be allocated to undertakings which previously produced isoglucose and have not produced any during the period from 1 November 1978 to 30 April 1979, provided they resume systematic production during the period of application of the quota arrangements; whereas finally, in order to take account of the case of undertakings starting systematic production during the period of application of the quota arrangements, provision should be made for establishing a reserve quantity representing 5 % of the total of basic quotas allocated to producer undertakings;

Whereas, with the same need for analogy with the system applied to sugar production and for equality of treatment, it is necessary to fix a specific amount of the production levy applicable to isoglucose production exceeding the basic quota without exceeding the maximum quota and which takes account of the fact that participation by the producer of the raw material

(1) OJ No L 134, 28. 5. 1977, p. 4.
(2) OJ No L 160, 17. 6. 1978, p. 9.
(3) OJ No L 359, 31. 12. 1974, p. 1.
(4) OJ No L 170, 27. 6. 1978, p. 1.

is not possible ; whereas, therefore, it is appropriate to take into consideration the share of the production levy borne by sugar manufacturers ;

Whereas, in the aforementioned judgment, the Court decided also that the isoglucose producers did not benefit from guarantees similar to those provided for sugar manufacturers ; whereas, therefore, it is appropriate to provide that refunds corresponding to those provided for the products referred to in Article 1 (1) (d) of Regulation (EEC) No 3330/74 may apply to exports of isoglucose in the natural state as well as in the form of the goods listed in the Annex to Regulation (EEC) No 1111/77,

HAS ADOPTED THIS REGULATION :

Article 1

The text of Article 4 (1) of Regulation (EEC) No 1111/77 is replaced by the following :

'*Article 4*

1. Provision may be made for an export refund for the products listed in Article 1 when unprocessed and for isoglucose falling within subheading 17.02 D I exported in the form of the goods listed in Annex I.

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 fixed by virtue of Article 19 (1) of Regulation (EEC) No 3330/74 for the products referred to in Article 1 (1) (d) of that Regulation ;

(b) the economic aspects of the proposed exportations.

When the refund is being fixed, account may be taken of the need to establish a balance between the use of Community raw materials in the manufacture of processed goods for export to non-member countries and the use of the products of such countries brought in under inward processing arrangements.'

Article 2

1. The provisions of Title II of Regulation (EEC) No 1111/77 are hereby repealed with effect from 1 July 1977.

2. Measures consequent upon the repeal in paragraph 1 shall be adopted in accordance with the procedure laid down in Article 12 of Regulation (EEC) No 1111/77.

Article 3

The following Title shall be inserted after Article 7 of Regulation (EEC) No 1111/77 :

'TITLE II

Quota arrangements

Article 8

1. Article 9 shall apply for the period 1 July 1979 to 30 June 1980.

2. The arrangements applicable from 1 July 1980 shall be adopted by the Council before 1 January 1980 in accordance with the procedure laid down in Article 43 (2) of the Treaty.

Article 9

1. A basic quota shall be allotted to each isoglucose producing undertaking established in the Community, for the period referred to in Article 8 (1).

Without prejudice to implementation of paragraph 3, the basic quota of each such undertaking shall be equal to twice its production as determined, under this Regulation, during the period 1 November 1978 to 30 April 1979.

2. To each undertaking having a basic quota, there shall also be allotted a maximum quota equal to its basic quota multiplied by a coefficient. This coefficient shall be that fixed by virtue of the second subparagraph of Article 25 (2) of Regulation (EEC) No 3330/74 for the period 1 July 1979 to 30 June 1980.

3. The basic quota referred to in paragraph 1 shall, if necessary, be corrected so that the maximum quota determined in accordance with paragraph 2 :

— does not exceed 85 %,

— is not less than 65 %

of the technical production capacity per annum of the undertaking in question.

4. The basic quotas established pursuant to paragraphs 1 and 3 are fixed for each undertaking as set out in Annex II.

5. Isoglucose producing undertakings which have not produced any during the reference period referred to in the second subparagraph of paragraph 1 and which can be shown to have resumed systematic production during the period referred to in Article 8 (1) shall be allotted a basic quota equal to the highest volume of their production attained during one of the following periods :

— 1 August 1976 to 31 July 1977,

— 1 July 1977 to 30 June 1978.

A maximum quota shall be allotted to such undertakings, determined in accordance with the provisions of paragraph 2.

6. A basic quota shall be allotted to undertakings starting systematic production of isoglucose during the period referred to in Article 8 (1) within the limits of a Community reserve quantity equal to 5 % of the total of basic quotas established pursuant to paragraph 1.

7. The quantity of isoglucose produced during the period referred to in Article 8 (1) which :

— exceeds the maximum quota of the undertaking,

or

— was produced by an undertaking not having a basic quota

may not be disposed of on the Community's internal market and must be exported in the natural state to third countries without the application of Article 4.

8. For the quantity of isoglucose production which exceeds the basic quota without exceeding the maximum quota Member States shall charge a production levy on the isoglucose producer concerned.

For the period referred to in Article 8 (1), the amount of the isoglucose production levy shall be equal to the share of the sugar production levy, as fixed for the 1979/80 sugar year by virtue of Article 28 of Regulation (EEC) No 3330/74, borne by the sugar manufacturers.

9. The Council, acting by a qualified majority on a proposal from the Commission, shall allocate the quotas referred to in paragraphs 5 and 6 and shall adopt any general rules necessary for the application of this Article.

10. Detailed rules for the application of this Article, which shall in particular provide for the levying of a charge on the quantity of isoglucose referred to in paragraph 7 which has not been exported in the natural state during the period referred to in Article 8 (1) and fix the amount of the production levy referred to in paragraph 8, shall be adopted in accordance with the procedure laid down in Article 12.'

Article 4

Annex II hereunder shall be added to Regulation (EEC) No 1111/77 :

'*ANNEX II*

Undertaking	Address of registered office	Basic quota in tonnes expressed as dry matter
Maizena GmbH	2000 Hamburg 1, Postfach 1000	28 000
Amylum SA	49, rue de l'Intendant, 1020 Bruxelles	56 667
Roquettes Frères SA	17, boulevard Vauban, 59000 Lille	15 887
SPAD	15063 Cassano Spinola, Alessandria, Casella postale 1	5 863
Fabbriche riunite Amido glucosio destrina, SpA	Piazza Erculea 9, Milano	10 706
Tunnel Refineries Ltd	Thames Bank House, Greenwich, London SE10 0PA	21 696'

Article 5

This Regulation shall enter into force on 1 July 1979.

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

Done at Luxembourg, 25 June 1979.

For the Council

The President

J. LE THEULE