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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 934/86

of 24 March 1986

amending Regulation (EEC) No 1785/81 on the common organization of the markets in the sugar sector

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 Article 23 of Regulation (EEC) No 1785/81 [3], as last amended by Regulation (EEC) No 3768/85 [4], lays down that the sugar sector's production quota arrangements are applicable in respect of the marketing years 1981/82 to 1985/86 and that the Council must, in good time, adopt the arrangements to be applied with effect from 1 July 1986;

Whereas, since the 1981/82 marketing year, the common organization of the sugar markets has been based on the principle that producers are financially liable for all the losses resulting from the disposal of the Community's surplus production in relation to domestic consumption;

Whereas, on the one hand, the changing situation on the world market in recent years, a constant feature of which has been overproduction, resulting in ever-rising surplus stocks, and, on the other hand, the large technical production potential of the Community mean that the effective measures applied to date in order to achieve control over production should be maintained; whereas the quota arrangements should therefore be applied for a new five-year period;

Whereas enlargement of the Community extends the application of the quota system's basic rules and its machinery to other producers and whereas the foreseeable volume of overproduction of both A and B sugar is considerably reduced as a result of this enlargement; whereas, moreover, additional outlets could be found within the Community by encouraging, for instance, the use of quota sugar for purposes other than human consumption; whereas, in view in particular of the unstable situation of world sugar market prices and the cyclical nature of this trend, it would appear appropriate to maintain unchanged the existing basic quantities of sugar and isoglucose for the 1986/87 and 1987/88 marketing years and to lay down that for the marketing years 1988/89 to 1990/91 the basic quantities and the allocation of the resulting costs for producers shall be fixed subsequently in the light of developments in the situation;

Whereas, in order to cover the disposal costs relating to the new outlets referred to above, the method of financing should be adjusted by making producers bear, as part of a review of the system, all or part of the cost of payment of the production refunds concerned;

Whereas, given the need to allow for a certain structural adjustment of the processing industry and of beet and cane growing during the period in which these quotas are applied, provision should be made for a margin of manoeuvre allowing Member States to alter undertaking quotas by a maximum of 10 %; whereas, in view of the particular situation of this sector in Spain, Italy and the French overseas departments, this limit should not be applied in those regions when restructuring plans are being implemented;

Whereas, to enable all actual expenditure relating to the export of Community production surpluses in respect of the 1981/82 to 1985/86 marketing years to be covered, regardless of application in the future of the self-financing system provided for in Article 28 of Regulation (EEC) No 1785/81, provision should be made for the introduction of an elimination levy in this sector; whereas a demonstration of solidarity should be asked of all producers concerned so that the deficit recorded following the period 1981/82 to 1985/86, amounting in budgetary terms to some 400 million ECU, may be eliminated;

[1] OJ No C 68, 24. 3. 1986.
[2] OJ No C 354, 31. 12. 1985, p. 10.
[3] OJ No L 177, 1. 7. 1981, p. 4.
[4] OJ No L 362, 31. 12. 1985, p. 8.

whereas to establish this levy as fairly as possible, it seems warranted to spread it out over a period of five marketing years and to apply it to all sugar or isoglucose production which has benefited directly or indirectly from the guarantees under the common organization of the markets ;

Whereas it is materially impossible to pass on this levy individually to the agricultural producer and the processing industry on the basis of the advantages reaped from the system in the past on account of the trend in production structures in this sector ; whereas application differentiated according to production regions within the meaning of Article 24 (2) of Regulation (EEC) No 1785/81 is accordingly the sole possibility ; whereas, to this end, due account must be taken of contributions paid in the past by all planters of beet and cane and producers of sugar and isoglucose, and of foreseeable effective production in these same regions by reference to production in the 1984/85 marketing year ;

Whereas, however, in view of the need to balance the costs and benefits of the scheme, the differentiated amounts of the elimination levy must be adjusted as necessary so as to ensure that the revenue from the levy does not exceed, per region and for the entire period of the five marketing years in question, the amount needed to cover actual expenditure on exporting surpluses in respect of the 1981/82 to 1985/86 marketing years ;

Whereas, in view of the nature of the elimination levy, it should not be applied to production regions in Spain and Portugal ;

Whereas beet and sugar production in Italy and that of cane and sugar in the French overseas departments continue to experience difficulties particularly in the application of modern production techniques or for structural reasons ; whereas these crops and their processing industries are important for these regions and even essential as regards the economy of the French overseas departments ; whereas the Member States concerned should therefore be authorized to grant national adjustment aids to these sectors for a specific period on certain conditions ; whereas, in the case of Italy, given the serious position of the sugar industry and the restructuring programme in progress in this sector, provision should be made, without prejudice to the application of Articles 92 to 94 of the Treaty, for the possible adjustment of these aids, and for the Commission to assess, in particular, the compliance of these aids with the said programme when applying those Articles ;

Whereas the provisions of this Regulation should be introduced in the best possible circumstances ; whereas a number of transitional measures may therefore be required ; whereas those measures, if any, should be adopted in accordance with the procedure laid down in Article 41 of Regulation (EEC) No 1785/81,

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 1785/81 is hereby amended as follows :

1. Article 19 (7) shall be replaced by the following :

   '7. Detailed rules for the application of this Article, and the amendment to Annex I, shall be adopted in accordance with the procedure laid down in Article 41.'

2. Article 23 shall be replaced by the following :

   '*Article 23*

   1. Articles 24 to 32 shall apply, without prejudice to paragraph 3, in respect of the marketing years 1986/87 to 1990/91.

   2. For the 1986/87 and 1987/88 marketing years, and without prejudice to Article 25, the A and B quotas of sugar-producing undertakings and isoglucose-producing undertakings shall be those which obtained in the 1985/86 marketing year.

   3. The Council, acting in accordance with the procedure laid down in Article 43 (2) of the Treaty, shall determine before 1 January 1988 in respect of the marketing years 1988/89 to 1990/91 in particular the basic production quantities for A and B sugar and isoglucose and the allocation of the resulting costs for producers in the context of the quota arrangements under this Title.'

3. Article 24 (1) (c) shall be replaced by the following :

   '(c) "C sugar" and "C isoglucose" mean any quantity of sugar or isoglucose the production of which is attributable to a specific marketing year and which is produced either by the undertaking concerned outside the sum of its A and B quotas or by an undertaking which has no quota.'

4. The second subparagraph of Article 25 (2) shall be replaced by the following :

   'The limit of 10 % referred to in the first subparagraph shall not apply in Italy, Spain or in the French overseas departments in cases where the transfer of quotas is made on the basis of restructuring plans in the beet, cane and sugar sectors in the region concerned and to the extent necessary to permit such plans to be implemented. As regards the transfers of quotas in Spain under such restructuring plans, Article 9 of Regulation (EEC) No 193/82 (1) shall apply.

   (1) OJ No L 21, 21. 1. 1982, p. 3.'

5. the second subparagraph of Article 26 (1) shall be replaced by the following:

   'Articles 8, 9, 18 and 19 shall not apply to this sugar, nor Articles 9, 18 and 19 to this isoglucose.'

6. in Article 28 (1), the introductory words shall be replaced by:

   '1. Before the end of each marketing year, there shall be recorded:'

7. in Article 28 (2), the introductory words shall be replaced by:

   '2. At the end of the 1987/88 marketing year there shall be recorded cumulatively for the two marketing years 1986/87 and 1987/88:'

8. the following third and fourth subparagraphs shall be added to Article 28 (5):

   'However, the Council may, in accordance with the procedure referred to in the second subparagraph and as from the 1986/87 marketing year, increase the maximum permitted B levy up to 37,5 % of the intervention price for white sugar.

   According to the procedure referred to in the second subparagraph, the Council may decide that some or all of the losses resulting from payment of production refunds referred to in Article 9 (3) shall be taken into account for the establishment of the total loss referred to in paragraph 1 (e) of this Article.'

9. the following Title shall be inserted after Article 32:

'TITLE III a

ELIMINATION LEVY

Article 32a

1. Without prejudice to Title III, an elimination levy, designed to eliminate the 400 million ECU deficit recorded following application of the quota arrangements in the period 1981/82 to 1985/86, shall be charged to manufacturers of sugar and isoglucose during the 1986/87 and 1990/91 marketing years in respect of their production of A and B sugar and A and B isoglucose.

In the marketing years 1986/87 and 1987/88 the elimination levy designed to eliminate the deficit for the whole Community of 80 million ECU for each marketing year shall apply in accordance with the particulars set out in paragraphs 2 and 3.

When making the decisions to be taken before 1 January 1988 pursuant to Article 23 (3), the Council, acting by a qualified majority on a proposal from the Commission, shall decide on the detailed procedures for applying the elimination levy in accordance with paragraphs 2 and 3 for the 1988/89 to 1990/91 marketing years.

2. With regard to sugar manufacturers, the elimination levy referred to in paragraph 1 shall be fixed, for the relevant regions, as follows:

Region within the meaning of Article 24 (2)	Amount in ECU for 100 kg (white sugar equivalent)
Denmark	0,7736
Germany	0,8823
France (metropolitan)	0,8820
French overseas departments	0,1766
Greece	0,3982
Ireland	0,4080
Italy	0,3398
Netherlands	0,7552
Belgo-Luxembourg Economic Union	0,7137
United Kingdom	0,4357

3. With regard to isoglucose manufacturers, the elimination levy referred to in paragraph 1 shall be fixed, for the relevant regions, as follows:

Region within the meaning of Article 24 (2)	Amount in ECU for 100 kg of isoglucose (dry matter equivalent)
Denmark	0,3094
Germany	0,3529
France (metropolitan)	0,3528
French overseas departments	0,0706
Greece	0,1593
Ireland	0,1632
Italy	0,1359
Netherlands	0,3021
Belgo-Luxembourg Economic Union	0,2855
United Kingdom	0,1743

4. However, the amounts of the elimination levies shall be adjusted, in accordance with the procedure laid down in paragraph 6, to the extent necessary to ensure that revenue from the elimination levy does not exceed, by region and for the whole of the five marketing years in question, five times the product of the elimination levy applied in the case of the region in question during the marketing years 1986/87 and 1987/88, multiplied by the A and B production quantity recorded for the marketing year 1984/85 for the same region.

5. The sugar manufacturers may require, depending on the case, from the sellers of beet or the sellers of cane grown in the Community, for a quantity of sugar for which the relevant elimination levy is charged, reimbursement of 60 % of this levy. However, the parties concerned may agree another percentage.

6. Detailed rules for the application of this Article shall, where necessary, be adopted according to the procedure provided for in Article 41.'

10. Article 46 shall be replaced by the following:

'Article 46

1. During the 1986/87 and 1987/88 marketing years, the Italian Republic and the French Republic shall be authorized to grant adaptation aid under the conditions laid down in paragraphs 2 and 3 to producers of sugar beet, producers of sugar cane and, where the case arises, producers of sugar.

2. In Italy, the aid referred to in paragraph 1 may be granted only in respect of the quantity of sugar produced within the limit of the A and B quotas of each sugar-producing undertaking.

For the sugar produced, the maximum amount of the aid per 100 kilograms of white sugar may not exceed 23,64 % of the intervention price for white sugar fixed in accordance with Article 3 (1) (a) for each of the marketing years 1986/87 and 1987/88.

3. However, the Italian Republic may adjust the aid referred to in paragraph 2 where this is necessitated by exceptional requirements connected with current plans for restructuring the sugar sector in Italy. In applying Articles 92 to 94 of the Treaty, the Commission shall assess in particular whether such aid is consistent with the restructuring plans.

4. In France, the aid referred to in paragraph 1 may be granted only in respect of a quantity of white sugar produced in the overseas departments not exceeding the basic quantity allocated to those departments as reduced by the A quota transfer of 30 000 tonnes of white sugar made in 1981/82 pursuant to the second subparagraph of Article 25 (3). Such aid may not exceed 6,04 ECU per 100 kilograms of sugar expressed as white sugar.

5. In addition, during the 1986/87 to 1987/88 marketing years the Italian Republic shall be authorized, when the interest rate granted in Italy to the most solvent applicant is higher, by 3 % or more, than the interest rate used to calculate the reimbursement referred to in Article 8, to cover the effect of this difference on the storage costs by a national aid.'

11. Article 48 shall be replaced by the following:

'Article 48

Transitional measures may be adopted in accordance with the procedure laid down in Article 41.

Such measures shall be applicable until 30 June 1987 at the latest.'

Article 2

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

It shall apply from 1 July 1986.

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

Done at Brussels, 24 March 1986.

For the Council

The President

G. BRAKS