COUNCIL REGULATION (EC) No 133/94

of 24 January 1994

amending Regulation (EEC) No 1785/81 on the common organization 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 Articles 42 and 43 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Article 23 of Council Regulation (EEC) No 1785/81 (4) continues the production quota arrangements for the sector in the 1993/1994 marketing year and also stipulates that before 1 January 1994 the Council is to determine the arrangements to be applied to sugar and isoglucose from 1 July 1994;

Whereas the present sugar-production arrangements preclude any risk of sudden change in areas planted and their provisions on self-financing make producers financially responsible for disposal of surplus Community production; whereas it is therefore possible for these arrangements to co-exist with those for other arable crops;

Whereas it is thus desirable to extend the existing production arrangements to the 1994/95 marketing year, together with the preferential arrangements for importation of third country raw sugar into Portugal, the Community refining aid arrangements and the authorizations to grant national aid in Germany, Italy and the United Kingdom;

Whereas the said Article 23 stipulates that the Council shall also adopt before 1 January 1994 production arrangements for inulin syrup; whereas continuation of the existing production quota arrangements for sugar and isoglucose for the 1994/95 marketing year requires that similar arrangements be applied to the production of inulin syrup, which as a direct substitute for isoglucose and liquid sugar would otherwise be in direct competition with these products on unequal terms of treatment, detrimental to them, since in view of the Community's surplus production of sugar any production of inulin syrup would necessarily result in exportation of a certain volume of sugar at the expense of producers of sugar and isoglucose alone and would risk a serious disturbance of the market;

Whereas as regards trade and also intervention, prices and storage the provisions covering isoglucose should, given the great similarity of the two products, also be applicable to inulin syrup;

Whereas apart from one fairly long-established production unit in one Member State inulin syrup production has commenced fairly recently in the other Member States; whereas it is accordingly equitable to assign to each producer quotas in line with his production in the most recent period possible, namely, as specified in Article 23 (4) of Regulation (EEC) No 1785/81, his output in the period 1 July 1992 to 30 June 1993; whereas in the case of 'B' quotas reference should be made to the treatment of isoglucose production; whereas for the sake of economic equity, quotas should be determined in the same way as was done for isoglucose, using as corrective for the undertakings in question their installed technical production capacity on 1 October 1992;

Whereas to make this corrective uniform throughout the Community, production capacity claims by firms applying for quotas that are not fully justified should, as far as possible, be discounted; whereas to this end 'production capacity' should be defined by reference to conversion of the basic agricultural product into inulin syrup in a continuous and complete process extending from cropping of the agricultural product to final processing;

Whereas this Regulation should be applied under the best possible conditions; whereas certain transitional measures may accordingly prove necessary; whereas these should be adopted in accordance with the procedure laid down in Article 41 of Regulation (EEC) No 1785/81,

(1) OJ No C 312, 18. 11. 1993, p. 10.
(2) OJ No C 20, 24. 1. 1994.
(3) OJ No C 34, 2. 2. 1994.
(4) OJ No L 177, 1. 7. 1981, p. 4. Regulation as last amended by Regulation (EEC) No 1548/93 (OJ No L 154, 25. 6. 1993, p. 10).

HAS ADOPTED THIS REGULATION:

Article 1

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

1. the following product shall be added to Article 1 (1):

'CN code	Description
(h) ex 1702 60 90 ex 1702 90 90	} Inulin syrup';

2. the following shall be added to Article 1 (2):

'(d) "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.';

3. in Article 7 the following subparagraph shall be added to paragraph 2:

'Conditions for purchasing the basic agricultural product for the manufacture of inulin syrup shall be governed by inter-branch agreements between Community growers of those basic products and inulin syrup producers.';

4. Article 9 (3) shall be replaced by the following:

'3. It may be decided to grant production refunds on the products listed in Article 1 (1) (a), (f) and (h) and on the syrups listed in Article 1 (1) (d) where these fall within one of the situations contemplated by Article 9 (2) of the Treaty and are used in the manufacture of certain products of the chemical industry.';

5. in Article 9 (4) (b) '1993/1994 marketing year' shall be replaced by '1994/1995 marketing year';

6. in Article 9 (4) (c) 'Throughout the 1993/1994 marketing year' shall be replaced by 'During the 1994/1995 marketing year';

7. in Article 12 (2), the second subparagraph shall be replaced by the following:

'In accordance with the same procedure, an obligation equivalent to the obligation to maintain a minimum stock may be laid down for the products referred to in Article 1 (1) (f) and (h).';

8. in Article 13 (1), the first subparagraph shall be replaced by the following:

'All imports into and exports out of the Community of the products listed in Article 1 (1) (a), (b), (c), (d), (f), (g) and (h) shall be conditional upon the presentation of an import licence or an export licence issued by the Member States to any applicant irrespective of the place of his establishment in the Community.';

9. Article 16 (1) shall be replaced by the following:

'1. A levy shall be charged on imports of the products listed in Article 1 (1) (a), (b), (c), (d), (f), (g) and (h).';

10. in Article 16, the following paragraph shall be inserted:

'6a. The levy on the product listed in Article 1 (1) (h) shall be equal, per 100 kilograms of dry matter, to 1,9 times the levy set under paragraph 6 of this Article.';

11. in Article 16 (a) (1) '1993/1994 marketing year' shall be replaced by '1994/1995 marketing year';

12. in Article 17 (4) the second subparagraph shall be replaced by the following:

'It may be decided in accordance with the same procedure that the system provided for in paragraph 2 shall apply in whole or in part to any of the products listed in Article 1 (1) (d), (f), (g) and (h).';

13. Article 18 (4) shall be replaced by the following:

'4. For the products listed in Article 1 (1) (b), (c), (f), (g) and (h), provisions corresponding to those of paragraphs 1 and 2 of this Article and to the rules for their application may be adopted in accordance with the procedure laid down in Article 41.';

14. in Article 19(2), the first subparagraph shall be replaced by the following:

'2. An export refund may be provided for the products listed in Article 1 (1) (f), (g) and (h) which are exported in the natural state or in the form of goods listed in Annex I.';

15. in Article 21(2), the first indent in the first subparagraph shall be replaced by the following:

'— the levying of any customs duty on the products listed in Article 1 (1) (a) to (d) and (f) to (h)';

16. Article 23 shall be replaced by the following:

'Article 23

1. Articles 24 to 32 shall apply in respect of the 1994/1995 marketing year.

2. For the period referred to in paragraph 1 and without prejudice to Articles 24 (2) and 25, the A and B quotas of undertakings producing sugar or isoglucose shall be those applicable for the 1993/1994 marketing year.

3. For the period referred to in paragraph 1, the basic A and B production quantities for sugar and isoglucose used in the assignment of quotas shall be those set out, as appropriate, in Article 24 (2) or 24 a (2).

4. For the period referred to in paragraph 1, Member States shall, in accordance with the requirements of Article 24 b, assign A and B quotas to undertakings producing inulin syrup in their territory that meet those requirements. Articles 24 and 25 shall not apply to such undertakings.

5. Before 1 January 1995 the Council shall, in accordance with the procedure laid down in Article 43 (2) of the Treaty, adopt the arrangements to apply from 1 July 1995 to the production of sugar, isoglucose and inulin syrup.';

17. in Article 24 (1), '1992/93' shall be replaced by '1993/94';

18. in Article 24 (1) (a), 'the 1991/92, 1992/93 and 1993/94 marketing years' shall be replaced by 'the 1991/92 to 1994/95 marketing years';

19. in Article 24 (3), '1992/93' shall be replaced by '1993/94';

20. the following Article shall be inserted:

'Article 24 b

1. Without prejudice to paragraph 3, the A quota of each undertaking producing inulin syrup shall be equal to its production volume from 1 July 1992 to 30 June 1993 from a specific installation designed and reserved for hydrolysis of inulin as part of a complete integrated conversion process stretching from reception of the basic agricultural product to final production of inulin syrup. Production shall be verified by the Member State on terms to be determined.

2. The B quota of each undertaking producing inulin syrup shall be 23,55 % of its A quota determined pursuant to paragraphs 1 and 3.

3. The A quota indicated in paragraph 1 shall if necessary be adjusted so that the sum of the A and B quotas:

— is not more than 85 %, and

— is not less than 65 %

of the undertaking's installed technical production capacity on 1 October 1992 for the continuous industrial production of inulin syrup from the specific installation designed and reserved for hydrolysis of inulin in accordance with paragraph 1.

This capacity shall be determined by the Member State concerned on the basis of the daily tonnage of the basic agricultural product processed into inulin syrup during a maximum period of one hundred days per year.

4. For the purposes of verification as indicated in paragraph 1, manufacturers producing inulin syrup on or after 1 July 1992 must forthwith notify to the Member State in which their production facilities are located, details of each inulin hydrolysis installation used for manufacturing, in accordance with paragraph 1, the product defined in Article 11 (2). The Member State may call upon the interested party to provide any further information it needs.

Member States shall take all necessary action to check the accuracy of notifications.

For the purpose of their allocation by the Member State, A and B quotas shall be expressed as sugar/isogucose equivalent by applying a coefficient of 1,9 to verified production in terms of dry matter.

Member States shall notify the quotas allocated and their holders to the Commission, which shall notify them to the other Member States.

5. For the purposes of this Regulation:

(a) "A inulin syrup" shall be inulin syrup expressed as sugar/isoglucose equivalent the production of which is assigned to a specific marketing year within the undertaking's A quota;

(b) "B inulin syrup" shall be the inulin syrup expressed as sugar/isoglucose equivalent the production of which is assigned to a specific marketing year and thereby falls outside the A quota of the undertaking but does not exceed the sum of its A and B quotas;

(c) "C inulin syrup" shall be inulin syrup expressed as sugar/isoglucose equivalent the production of which is assigned to a specific marketing year and which is either additional to the sum of the A and B quotas of the undertaking in question or has been produced by an undertaking not provided with quotas.

6. Rules for the application of this Article, in particular the terms mentioned in paragraph 1, shall be adopted in accordance with the procedure laid down in Article 41.';

21. Article 26 (1) shall be replaced by the following:

'1. Without prejudice to paragraph 2, C sugar not carried forward pursuant to Article 27, C isoglucose and C inulin syrup may not be disposed of on the Community's internal market and must be exported in the natural state without further processing before 1 January following the end of the marketing year in question.

Articles 8, 9, 18 and 19 shall not apply to this sugar, and Articles 9, 18 and 19 shall not apply to this isoglucose or this inulin syrup.';

22. in Article 26 (3), the second subparagraph shall be replaced by the following:

'These rules shall provide in particular for the levying of a charge on the C sugar, C isoglucose and C inulin syrup referred to in paragraph 1 in respect of which proof of its export in the natural state within the prescribed period was not furnished at a date to be determined.';

23. Article 28 (1), (2), (3) and (4) shall be replaced by the following:

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

(a) estimates of the production of A and B sugar, A and B isoglucose, and A and B inulin syrup attributable to the marketing year in question;

(b) estimates of the quantities of sugar, isoglucose and inulin syrup disposed of for consumption within the Community during the marketing year in question;

(c) the exportable surplus obtained by subtracting the quantity referred to in (b) from the quantity referred to in (a);

(d) estimates of the average loss or the average revenue per tonne of sugar for export obligations to be fulfilled during the current marketing year.

This average loss or average revenue shall be equal to the difference between the total amount of refunds and the total amount of levies on the total tonnage of export obligations in question;

(e) estimates of the total loss or the total revenue, obtained by multiplying the surplus referred to in (c) by the average loss or the average revenue referred to in (d).

2. Before the end of the 1994/95 marketing year there shall be recorded cumulatively for the 1991/92, 1992/93, 1993/94 and 1994/95 marketing years:

(a) the exportable surplus established, on the basis of the definitive production of A and B sugar, A and B isoglucose and, from the 1994/95 marketing year, A and B inulin syrup and the definitive quantity of sugar, isoglucose and, from the 1994/95 marketing year, inulin syrup disposed of for consumption within the Community;

(b) the average loss or average revenue per tonne of sugar resulting from the total export obligations in question determined by following the calculating rule referred to in paragraph 1 (d), second subparagraph;

(c) the total loss or total revenue obtained by multiplying the surplus referred to in (a) by the average loss or the average revenue referred to in (b);

(d) the total sum of the basic production levies and the B levies charged.

The estimated total loss or total revenue referred to in paragraph 1 (e) shall be adjusted on the basis of the difference between the amounts recorded in (c) and (d).

3. When the recorded figures referred to in paragraph 1 result, after adjustment in accordance with paragraph 2, and without prejudice to Article 29 (1), in an estimated overall loss, that loss shall be divided by the estimated production of A and B sugar, A and B isoglucose and A and B inulin syrup attributable to the current marketing year. An amount equal to this quotient shall be charged to manufacturers as a basic production levy on their production of A and B sugar, A and B isoglucose and A and B inulin syrup.

This levy shall not, however, exceed:

— on the sugar in question, an amount equal to 2,0 % of the intervention price for white sugar;

— for the inulin syrup in question, expressed as sugar/isoglucose equivalent by applying a coefficient of 1,9, the maximum amount payable on white sugar; and

— on the isoglucose in question, the share of the basic production levy borne by sugar manufacturers.

4. When the maximum permitted basic production levy does not fully cover the overall loss referred to in the first subparagraph of paragraph 3, the uncovered balance shall be divided by the estimated production of B sugar, B isoglucose and B inulin syrup attributable to the marketing year in question. An amount equal to this quotient shall be charged on manufacturers as a levy on their production of B sugar, B isoglucose and B inulin syrup.

Subject to paragraph 5, this levy shall not, however, exceed:

— on B sugar, an amount equal to 30,0 % of the intervention price for white sugar;

— for B inulin syrup, expressed as sugar/isoglucose equivalent by application of a coefficient of 1,9, the maximum amount payable on B white sugar; and

— on B isoglucose, the share of the levy on B sugar borne by sugar manufacturers.';

24. Article 28 a (2) shall be replaced by the following:

'2. The aditional levy shall be determined for each undertaking producing sugar, isoglucose or inulin syrup by applying to the total sum due from the undertaking by way of production levies for the marketing year in question a coefficient to be determined. This coefficient shall be the ratio, reduced by 1, for the Community between the overall loss recorded for the marketing year in question under Article 28 (1) and (2) and the revenue from the basic production levies and B levies due from manufacturers of sugar, isoglucose and inulin syrup, respectively, for that marketing year.';

25. the following Article shall be added:

'Article 28 b

1. Inulin syrup producers may require sellers of the basic agricultural product used to produce such inulin syrup to be responsible for part of the basic production levies, B levies and additional levies charged to the producers. This share cannot exceed that borne by the sugar-beet growers for the marketing year concerned; it shall be determined by inter-branch agreement or by contract with reference to the purchase price of the basic product delivered for this purpose under the marketing year in question.

2. Detailed rules for the application of paragraph 1 shall be adopted, where necessary, in accordance with the procedure laid down in Article 41.';

26. in Article 46 (1), (3) (b), (5) and (6), '1993/94 marketing year' shall be replaced by '1994/95 marketing year';

27. in the first subparagraph of Article 46 (7), '1990/91, 1991/92, 1992/93 and 1993/94 marketing years' shall be replaced by '1990/91 to 1994/95 marketing years';

28. in Article 48, '30 June 1994' shall be replaced by '30 June 1995'.

Article 2

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

It shall apply from 1 July 1994.

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

Done at Brussels, 24 January 1994.

For the Council

The President

G. MORAITIS