COMMISSION REGULATION (EC) No 975/2007

of 21 August 2007

fixing the quantitative limit for the exports of out-of-quota isoglucose for the period from 1 August to 30 September 2007

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector [1], and in particular Article 12(d) thereof,

Whereas:

(1) According to Article 12(d) of Regulation (EC) No 318/2006 the isoglucose produced in excess of the quota referred to in Article 7 of that Regulation can be exported only within the quantitative limit to be fixed.

(2) For some of the Community producers of isoglucose exports from the Community represent an important part of their economic activities and they have established traditional markets outside the Community as well. Exports of isoglucose to these markets could be economically viable also without granting export refunds. To that end it is necessary to fix a quantitative limit for out-of-quota isoglucose exports so that the Community producers concerned may continue to supply their traditional markets.

(3) For the period from 1 August to 30 September 2007 it is estimated that fixing the quantitative limit at 20 000 tonnes, dry matter, for out-of-quota isoglucose exports would correspond to the market demand.

(4) A preventive withdrawal of certain quantities of sugar, isoglucose and inulin syrup was provided for in respect of the 2006/2007 marketing year by Article 3 of Commission Regulation (EC) No 493/2006 of 27 March 2006 laying down transitional measures within the framework of the reform of the common organisation of the markets in the sugar sector, and amending Regulations (EC) No 1265/2001 and (EC) No 314/2002 [2]. The undertakings concerned could request that the quantities of their production affected by that measure be considered fully or partially to be produced in excess of their respective quotas, thus opening for those undertakings the possibilities provided for in Article 12 of Regulation (EC) No 318/2006 as regards out-of-quota production. Such requests had to be submitted before 31 January 2007. In order to enable the undertakings concerned to submit such requests in respect of isoglucose to be exported within the quantitative limit for out-of-quota isoglucose exports, a further deadline for the submission of those requests should therefore be fixed.

(5) With a view to ensuring orderly management, preventing speculation and providing for effective controls, detailed rules should be laid down for submitting licence applications.

(6) In order to minimise the risk of fraud and to prevent any abuse associated with the eventual re-import or re-introduction into the Community of the isoglucose syrups concerned, certain countries of the Western Balkans should be excluded from the eligible destinations for out-of-quota isoglucose exports. However, those countries of the region whose authorities have to issue an export certificate for the confirmation of the origin of the sugar or isoglucose products to be exported to the Community should be exempted from this exclusion as the risks of fraud are more limited.

(7) To assure coherence with the provisions relevant to exports in the sugar sector as laid down by Commission Regulation (EC) No 958/2006 of 28 June 2006 on a standing invitation to tender to determine refunds on exports of white sugar for the 2006/2007 marketing year [3] and Commission Regulation (EC) No 38/2007 of 17 January 2007 opening a standing invitation to tender for the resale for export of sugar held by the intervention agencies of Belgium, the Czech Republic, Spain, Ireland, Italy, Hungary, Poland, Slovakia and Sweden [4] exports of out-of-quota isoglucose should not be permitted to certain close destinations as well.

[1] OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Commission Regulation (EC) No 247/2007 (OJ L 69, 9.3.2007, p. 3).

[2] OJ L 89, 28.3.2006, p. 11. Regulation as last amended by Regulation (EC) No 793/2007 (OJ L 169, 29.6.2007, p. 22).

[3] OJ L 175, 29.6.2006, p. 49. Regulation as last amended by Regulation (EC) No 203/2007 (OJ L 61, 28.2.2007, p. 3).

[4] OJ L 11, 18.1.2007, p. 4. Regulation as amended by Regulation (EC) No 203/2007.

(8) In order to contravene the risk of re-importation and, more specifically, to ensure that the specific rules for returned goods referred to in Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code [1] and in Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [2] are being respected, Member States should be required to take all the necessary control measures.

(9) In addition to the provisions of Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector [3] further implementing provisions should be established for the administration of the quantitative limit to be fixed by this Regulation, in particular regarding the conditions for applying for export licences.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

Fixing the quantitative limit for out-of-quota isoglucose exports

1. For the period from 1 August to 30 September 2007, the quantitative limit referred to in Article 12(d) of Regulation (EC) No 318/2006 shall be 20 000 tonnes, in dry matter, for exports without refund of out-of-quota isoglucose falling within CN codes 1702 40 10, 1702 60 10 and 1702 90 30.

2. Exports within this quantitative limit shall be allowed for all destinations with exception of the following:

(a) third countries: Andorra, the Holy See (Vatican City State), Liechtenstein, San Marino, Albania, Bosnia and Herzegovina, Montenegro and the former Yugoslav Republic of Macedonia;

(b) territories of EU Member States not forming part of the customs territory of the Community: Gibraltar, Ceuta, Melilla, Communes of Livigno and Campone d'Italia, Heligoland, Greenland, Faeroe Islands and the areas of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.

3. Exports of the products referred to in paragraph 1 shall only be allowed where they:

(a) are obtained by isomerisation of glucose;

(b) have a fructose content by weight in the dry state of not less than 41 %;

(c) have a total content by weight in the dry state of polysaccharides and oligosaccharides, including di- and trisaccharides, of not more than 8,5 %.

The dry matter content of isoglucose shall be determined on the basis of the density of the diluted solution in a proportion by weight of one to one or, in the case of products with a very high consistency, by drying.

4. By way of derogation from the deadline fixed in Article 3(1) of Regulation (EC) No 493/2006, undertakings whose isoglucose production exceeded the threshold referred to in that paragraph may submit, before 30 September 2007, a request that the share of their production of isoglucose which exceeds the above threshold should be considered fully or partially to be produced in excess of the quota.

Article 2

Export licences

1. Exports within the quantitative limit fixed in Article 1(1) shall be subject to the presentation of an export licence in accordance with the provisions of Commission Regulation (EC) No 1291/2000 [4], Regulation (EC) No 951/2006 and Article 19 of Commission Regulation (EC) No 967/2006 [5] unless otherwise provided for in this Regulation.

2. By way of derogation from Article 9 of Regulation (EC) No 1291/2000, rights deriving from export licences shall not be transferable.

Article 3

Application for export licences

1. Applications for export licences in respect of the quantitative limit fixed in Article 1(1) of this Regulation may be submitted only by producers of isoglucose which are approved in accordance with Article 17 of Regulation (EC) No 318/2006 and to which an isoglucose quota has been allocated in respect of the marketing year 2006/2007 in accordance with Article 7 of that Regulation.

[1] OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).
[2] OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 214/2007 (OJ L 62, 1.3.2007, p. 6).
[3] OJ L 178, 1.7.2006, p. 24. Regulation as amended by Regulation (EC) No 2031/2006 (OJ L 414, 30.12.2006, p. 43).
[4] OJ L 152, 24.6.2000, p. 1.
[5] OJ L 176, 30.6.2006, p. 22.

2. Applications for export licences shall be submitted to the competent authorities of the Member State in which the applicant has been allocated an isoglucose quota.

3. Export licence applications shall be submitted each week, from Monday to Friday, starting on the date of entry into force of this Regulation and until the issue of licences is discounted in accordance with Article 8.

4. Applicants may submit one application only per weekly period.

5. The quantity applied for in respect of each export licence shall not exceed 5 000 tonnes.

6. The application shall be accompanied by proof that the security referred to in Article 4 has been lodged.

7. Box 20 of the application for an export licence and the licence shall contain the following entry:

'out-of-quota isoglucose for export without refund'.

Article 4

Security for the export licence

1. By way of derogation from the fourth indent of Article 12(1)(b) of Regulation (EC) No 951/2006, the applicant shall lodge a security of EUR 11 per 100 kilograms net dry matter of isoglucose.

2. The security referred to in paragraph 1 may be lodged at the applicant's choice, either in cash or in the form of a guarantee given by an establishment complying with criteria laid down by the Member State in which the application for the licence is submitted.

3. The security referred to in paragraph 1 shall be released in accordance with Article 35 of Regulation (EC) No 1291/2000:

(a) for the quantity for which the applicant has fulfilled, within the meaning of Articles 31(b) and 32(1)(b)(i) of Regulation (EC) No 1291/2000, the export obligation resulting from the licences issued in accordance with Article 6 of this Regulation; and

(b) for which the applicant has provided proof to the satisfaction of the competent authorities of the Member State where the export licence was issued that the customs formalities for importation into the destination of export have been completed within the meaning of Article 16 of Commission Regulation (EC) No 800/1999 [1], for the quantity of isoglucose in question.

Article 5

Communication of Member States

1. Member States shall notify the Commission, no later than the first working day of each week, of the quantities of isoglucose, for which export licence applications have been submitted during the preceding week.

The quantities applied for shall be broken down by eight-digit CN code. The Member States shall also inform the Commission if no applications for export licences have been submitted.

2. The Commission shall draw up weekly records of the quantities for which export licence applications have been submitted.

Article 6

Issue and validity of licences

1. Licences shall be issued on the third working day following the notification referred to in Article 5(1), as the case may be taking account of the acceptance percentage fixed by the Commission in accordance with Article 8.

2. Member States shall communicate, on the first working day of each week, to the Commission, the quantities of isoglucose for which export licences have been issued during the preceding week.

3. Export licences issued in respect of the quantitative limit fixed in Article 1(1) shall be valid until 30 September 2007.

4. Each Member State shall keep a record of the quantities of isoglucose actually exported under the export licences referred to in Article 6(1).

5. Member States shall communicate to the Commission before the end of each month, the quantities of isoglucose actually exported during the preceding month.

Article 7

Methods of communication

The communications referred to in Articles 5(1), 6(2) and (5) shall be transmitted electronically in accordance with forms made available to the Member States by the Commission.

[1] OJ L 102, 17.4.1999, p. 11.

Article 8

Acceptance percentage for the issuing of export licences and suspension of the lodging of licence applications

Where the quantities applied for export licences exceed the quantitative limit fixed in Article 1(1) of this Regulation for the period concerned the provisions laid down in Article 9 of Regulation (EC) No 951/2006 shall apply *mutatis mutandis*.

Article 9

Controls

Member States shall take all the measures necessary to establish appropriate controls to ensure that the specific rules for returned goods laid down in Chapter 2 of Title VI of Regulation (EEC) No 2913/92 and in Title I of Part III of Regulation (EEC) No 2454/93 are respected and to prevent preferential agreements with third countries from being circumvented.

Article 10

Entry into force

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

It shall apply from 1 August 2007.

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

Done at Brussels, 21 August 2007.

For the Commission
Mariann FISCHER BOEL
Member of the Commission