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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 387/81

of 10 February 1981

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 opinion of the European Parliament⁽¹⁾,

Whereas Council Regulation (EEC) No 1111/77 of 17 May 1977 laying down common provisions for isoglucose⁽²⁾, in the version established by Regulation (EEC) No 1293/79⁽³⁾, provided for the application of a system of production quotas for the period from 1 July 1979 to 30 June 1980;

Whereas in Cases No 138/79 and No 139/79, the Court of Justice of the European Communities, on 29 October 1980, annulled Regulation (EEC) No 1293/79, which amended Regulation (EEC) No 1111/77, on the grounds of an infringement of an essential procedural requirement; whereas, in rejecting all the alleged complaints of breach of the principles of the law of competition, of proportionality and of non-discrimination made against the system of production quotas introduced by Regulation (EEC) No 1293/79, the Court affirmed that the latter Regulation was substantively in conformity with Community law; whereas it is therefore appropriate to reinstate *inter alia* the system of quotas concerned retroactively,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1111/77 shall be amended as follows:

- Article 4 (1) shall be replaced by the following:
 - Provision may be made for an export refund for the products listed in Article 1 when unprocessed and for isoglucose falling within subheading

⁽¹⁾ Opinion delivered on 9 February 1981 (not yet published in the Official Journal).

⁽²⁾ OJ No L 134, 28. 5. 1977, p. 4.

⁽³⁾ OJ No L 162, 30. 6. 1979, p. 10.

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:

- the export refund fixed pursuant to Article 19 (1) of Regulation (EEC) No 3330/74 for the products referred to in Article 1 (1) (d) of that Regulation;
- 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 third countries and the use of the products of such countries brought in under inward processing arrangements.'

- Title II in the version established by Regulation (EEC) No 1298/78⁽⁴⁾ is hereby repealed with effect from 1 July 1977.
- The following Title shall be inserted after Article 7:

TITLE II

Quota arrangements

Article 8

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

Article 9

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

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

⁽⁴⁾ OJ No L 160, 17. 6. 1978, p. 9.

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

6. A basic quota shall be allotted to undertakings starting systematic production of isoglucose during the period referred to in Article 8 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 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 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 pursuant to 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 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.

4. The Annex shall become Annex I. The following Annex shall be added:

ANNEX II

Undertaking	Address of registered office	Basic quota in tonnes expressed as dry matter
Maizena GmbH	Postfach 1000, D-2000 Hamburg 1	28 882
Amylum SA	rue de l'Intendant 49, B-1020 Brussels	56 667
Roquettes Freres SA	17, Boulevard Vauban, F-59000 Lille	15 887
SPAD	15063 Cassano Spinola, casella postale 1, I-Alessandria	5 863
Fabbriche riunite Amido glucosio destrina, SpA	Piazza Ercolea 9, I-Milano	10 706
Tunnel Refineries Ltd	Thames Bank House, Greenwich, UK-London SE10 0PA	21 696

Article 2

1. This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.
2. It shall apply with effect from 1 July 1979 with the exception of Article 1 (2) which shall apply with effect from 1 July 1977.
3. References to Regulation (EEC) No 1293/79 contained in the Acts adopted in the application of Regulation (EEC) No 1111/77 shall be understood as references to this Regulation.

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

Done at Brussels, 10 February 1981.

For the Council

The President

G. BRAKS
