

COUNCIL REGULATION (EC) No 1868/94

of 27 July 1994

establishing a quota system in relation to the production of potato starch

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 Council Regulation (EEC) No 1543/93 of 14 June 1993 fixing the amount of the premium paid to producers of potato starch during the 1993/94, 1994/95 and 1995/96 marketing years (4) provided for the Council to decide what measures to take if the production of potato starch within the Community exceeded 1,5 million tonnes in the marketing year 1993/94 or 1994/95; whereas production in 1993/94 exceeded such figure;

Whereas the potato starch sector is not subject to the restrictions on production, and in particular to set-aside, applying in the cereals sector; whereas all provisions in favour of the potato starch sector must nevertheless be compatible with the control of production, which is as necessary in the potato starch sector as in other sectors;

Whereas the measure controlling production which fits best with the mechanism of premiums for the production of potato starch is that of the introduction of a system of quotas;

Whereas any Member State where potato starch has been produced should be allocated a quota based on the average amount of potato starch produced in that Member State in the marketing years 1990/91, 1991/92 and 1992/93 for which premium was received, proportionately adjusted having regard to a total Community quota of 1,5 million tonnes;

Whereas quotas should be allocated to Denmark, Germany, Spain, France and the Netherlands for use in the marketing years 1995/96, 1996/97 and 1997/98;

Whereas in the case of Germany, the change from the planned economy existing in the new *Länder* before reunification to a market economy with the consequent change in agricultural production structures and necessary investments justifies the use of a different reference year, namely 1992/93, and the increase of the amount produced in that year by 90 000 tonnes, together with the creation of a reserve for Germany to cover production resulting from investments irreversibly undertaken before 31 January 1994, if this cannot be met within the limit of the quota allocated to Germany; whereas these amounts cannot be accommodated within a Community quota of 1,5 million tonnes; whereas it is therefore necessary to add them to this figure;

Whereas producer Member States should allocate their quota for a period of three years between all undertakings producing potato starch, on the basis of the average starch produced by them during the marketing years 1990/91, 1991/92 and 1992/93 and for which premium was received, or the amount of starch produced in 1992/93 only on the same basis, at the choice of the Member State, and investments made by those undertakings prior to 31 January 1994 in relation to the production of potato starch;

Whereas in order to take account of possible restructuring of the market in potato starch production the Commission shall at the end of the three-year period and thereafter at three-yearly intervals make a report to the Council on quota allocations accompanied, if necessary, by appropriate proposals; whereas at that time the case of new potato-starch producers will be examined;

Whereas specific structural constraints on the starch production sector make it necessary to establish a premium for the production of potato starch up to the level of an undertaking's quota; whereas, in order to protect potato producers, payment of the premium shall be dependent upon payment of the minimum price of the quantity of potatoes needed to produce starch up to the level of the quota;

Whereas undertakings producing potato starch shall not conclude cultivation contracts with potato producers in relation to a quantity of potatoes which would produce

(1) OJ No C 83, 19. 3. 1994, p. 5.

(2) OJ No C 128, 9. 5. 1994.

(3) OJ No C 148, 30. 5. 1994, p. 49.

(4) OJ No L 154, 25. 6. 1993, p. 4.

starch in excess of their quota; whereas any starch produced in excess of that quota shall be exported from the Community without benefiting from any export refund,

HAS ADOPTED THIS REGULATION

Article 1

A system of quotas for the production of potato starch which may benefit from Community aid is hereby introduced.

Article 2

1. The following producer Member States are hereby allocated quotas for the production of potato starch within the following limits for the marketing years 1995/96, 1996/97 and 1997/98:

Denmark:	178 460 tonnes,
Germany:	591 717 tonnes,
Spain:	2 000 tonnes,
France:	281 516 tonnes,
Netherlands:	538 307 tonnes,
Total:	1 592 000 tonnes

A reserve of a maximum of 110 000 tonnes shall be created to cover production realized in Germany in the marketing year 1996/97 provided that such production results from investments irreversibly undertaken before 31 January 1994. Germany may only utilize such reserve after exhaustion of any quota made available as a result of the cessation of trading of undertakings producing potato starch. Use of the reserve by Germany shall be subject to Commission acceptance that there has been compliance with the abovementioned conditions.

2. Each producer Member State shall allocate the quota referred to in paragraph 1 to undertakings producing potato starch for use in the marketing years 1995/96, 1996/97 and 1997/98, at the option of the Member State, on the basis of:

- either the average amount of starch produced by them in the marketing years 1990/91, 1991/92 and 1992/93 and for which they received the premium referred to in Article 1 of Regulation (EEC) No 1543/93,
- or the amount of starch produced by them in the marketing year 1992/93 and for which they received the premium referred to in Article 1 of Regulation (EEC) No 1543/93.

Where necessary, a producer Member State shall also, on the basis of objective criteria, take into account

investments made by undertakings producing potato starch before 31 January 1994 which did not give rise to production in the reference period chosen by that Member State.

Article 3

1. On or before 31 October 1997 and thereafter at three-yearly intervals, the Commission shall present to the Council a report on the allocation of quota within the Community, accompanied if necessary by appropriate proposals. This report will take account of the development of the potato-starch market as well as that of the cereal-starch market.

2. On or before 30 November 1997 and thereafter at three-yearly intervals, the Council, acting on the basis of Article 43 of the Treaty, shall allocate quota between Member States on the basis of the report referred to in paragraph 1, for use in the following three marketing years.

3. On or before 31 December 1997 and thereafter at three-yearly intervals, Member States shall notify those concerned of the details of quota allocations for the following three marketing years.

Article 4

An undertaking producing potato starch shall not conclude cultivation contracts with potato producers for a quantity of potatoes which would produce a quantity of starch in excess of its quota, referred to in Article 2 (2).

Article 5

A premium of ECU 18,43 per tonne of starch produced shall be paid to undertakings producing potato starch for the quantity of potato starch up the quota limit referred to in Article 2 (2), provided that they have paid to potato producers the minimum price, referred to in Article 8 (1) of Regulation (EEC) No 1766/92 (1), for all the potatoes necessary to produce starch up to that quota limit.

Article 6

1. Without prejudice to Article 5, any potato starch produced in excess of the quota referred to in Article 2 (2) shall be exported, as such, from the Community before 1 January following the end of the marketing year in question.

No export refund shall be paid in respect of it.

(1) OJ No L 181, 1. 7. 1992, p. 21. Regulation as last amended by Regulation (EC) No 1866/94 (see page 1 of this Official Journal).

2. Without prejudice to paragraph 1, an undertaking producing potato starch may, in any marketing year, in addition to its quota for that year, utilize no more than 5 % of its quota relating to the following marketing year. In such case, the quota for the following marketing year shall be reduced accordingly.

Article 7

The provisions of this Regulation shall not cover production of potato starch by undertakings which neither purchase potatoes which have benefited from the compensatory aid referred to in Article 8 of Regulation (EEC) No 1766/92 nor benefit from the refund referred to in Article 7 of that Regulation.

Article 8

Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92. They

shall include, in particular, rules applicable in the case of mergers, changes of ownership and the commencement or cessation of trading of undertakings, and any specific measures necessary to facilitate the transition from the system in force to that established by this Regulation.

Article 9

Regulation (EEC) No 1543/93 is repealed with effect from 1 July 1995. All references to Regulation (EEC) No 1543/93 shall be construed as being references to this Regulation.

Article 10

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 1995.

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

Done at Brussels, 27 July 1994.

For the Council

The President

Th. WAIGEL
