COMMISSION

COMMISSION DECISION

of 18 December 1981

authorizing the United Kingdom to grant exemptions from Council Regulation (EEC) No 543/69 on the harmonization of certain social legislation relating to road transport

(Only the English text is authentic)

(82/62/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport (1), as last amended by Regulation (EEC) No 2829/77 (2), and in particular Article 14a (3) (b) thereof, hereinafter referred to as 'the Regulation',

Whereas Commission Decision 78/638/EEC (3), as amended by Decision 80/1284/EEC (4), authorized the United Kingdom to exempt the transport of milk between farms and dairies from the Regulation until 31 December 1981, as long as certain conditions imposed by the Commission were respected;

Whereas the United Kingdom lodged an application, on 1 February 1980, requesting the Commission to authorize a permanent exemption from the Regulation in respect of the transport of milk from the farm to the dairy within national frontiers;

Whereas the United Kingdom, pursuant to Decision 80/1284/EEC, has submitted to the Commission a study which describes the structure of the milk market and milk supply and marketing arrangements in the United Kingdom, and sets out the grounds for the requested permanent derogation from the Regulation;

Whereas supplementary information was obtained in meetings with representatives of the United Kingdom Government on 3 and 24 July 1981, of the United Kingdom milk industry on 3 July 1981 and of the Transport and General Workers' Union on 7 July 1981;

Whereas the abovementioned study distinguishes five main categories of milk transport:

— collections from farms by fairly small tankers over comparatively short distances,

— transport of milk between reload points and dairies by large tankers over distances of up to 380 miles (approximately 630 km) return journey,

— secondary balancing movements of raw milk by heavy vehicles over long distances to offset seasonal and other production and market fluctuations,

— transport of bottled milk,

— door to door milk sales;

Whereas the United Kingdom application requests derogations from the Regulation for the first four of these categories;

Whereas, relying principally on information supplied by representatives of the United Kingdom milk industry, the United Kingdom Government takes the view that strict application of the Regulation is technically and operationally impossible for these four transport operations and also economically undesirable;

Whereas, according to the United Kingdom Government, strict compliance with these provisions would give rise to additional costs which the milk industry would find difficult to absorb; whereas the changes

(1) OJ No L 77, 29. 3. 1969, p. 49 (for codified version see OJ No C 73, 17. 3. 1979, p. 1).
(2) OJ No L 334, 24. 12. 1977, p. 11.
(3) OJ No L 203, 27. 7. 1978, p. 39.
(4) OJ No L 377, 31. 12. 1980, p. 28.

necessary as a result of a full application of the Regulation would result in some fresh milk having to be processed into other products rather than being sold in its original state ; whereas this could have detrimental effects not only on the United Kingdom milk markets, which are faced with surplus production and a decline in demand, but also on the organization of the Community milk market as a whole, as this would require additional EAGGF intervention and expenditure, and put a further burden on the Community budget ;

Whereas, however, the relevant United Kingdom trade unions are in favour of the full implementation of the Regulation to all milk transport ;

Whereas the United Kingdom milk industry and milk markets are very efficiently organized and characterized by high productivity with production, marketing and sales in line with the needs of producers, retailers and consumers ;

Whereas the Commission considers that the necessary reorganization of the United Kingdom milk market for the application of the Regulation to the transport concerned should not therefore prove an insurmountable obstacle and that existing drivers' rotas can be altered and extra drivers can be taken on and deployed as needed ;

Whereas the financial effects arising from the additional expenditure on the production costs per litre of fresh milk will be minimal and will not lead to major changes in fresh milk production and marketing ;

Whereas the Commission also takes the view that the extra costs of investing in butter and skimmed-milk powder manufacturing capacity and the costs to the EAGGF will not actually occur if the Regulation is implemented, because processors of dairy products will prefer to maximize the use of their existing production capacity and to keep their customers adequately supplied with these products rather than to invest in new equipment for the manufacture of butter and skimmed-milk powder ;

Whereas Article 14a (3) (b) of the Regulation is limited to providing for the possibility of authorizing an exemption for transport collecting milk from farms and going directly to a dairy or via a reload point and these operations are such that they cannot be conducted otherwise than by road transport ; whereas the full application of the Regulation to this type of transport would have consequences particularly of a financial nature which, notwithstanding the fundamental importance of its provisions, would not be commensurate with the social benefits that might be derived from its application to this sector of the milk industry ; whereas a continued exemption for this type of transport would not have any effect on the conditions of competition between the various modes of surface transport or with other road haulage operations ; whereas such a continued exemption will not jeopardize road safety or run counter to the general objectives of the Regulation on social progress ; whereas, accordingly, the authorization in respect of this type of transport may be continued ;

Whereas the Commission considers that there should be a review of this authorization before 1 January 1987 in order to take account of social developments ;

Whereas there is, however, no justification for authorizing a permanent exemption under Article 14a (3) (b) of the Regulation for the transport of untreated milk from reload points ; whereas this transport is an industrial operation involving the use of heavy milk tankers, often travelling quite long distances ;

Whereas this transport must therefore be treated in the same way as other road haulage services ; whereas exemptions from the provisions of the Regulation would be incompatible with the requirements of equalizing conditions for fair competition between modes of surface transport and the promotion of road safety and reasonable working conditions ;

Whereas the additional costs per unit of production arising from the application of the Regulation to such transport operations in the United Kingdom milk industry are comparatively insignificant and can be borne ;

Whereas the full implementation of the Regulation, in respect of the transport of untreated milk between reload points and dairies, should take place not later than 1 January 1985 in order to avoid an abrupt transition with undesirable consequences for the milk industry and in order to give the milk industry sufficient time to make the necessary adjustments ;

Whereas this three year transitional period is both a necessary and a reasonable period of time to achieve these two objectives ;

Whereas the applicable provisions of United Kingdom law should apply to all operations involving the transport of untreated milk within the United Kingdom, which are hereby authorized to be made subject to an exemption from the Regulation, whether without time limit or temporarily,

HAS ADOPTED THIS DECISION :

Article 1

1. The United Kingdom is authorized to exempt from the provisions of Regulation (EEC) No 543/69, as provided for under Article 14a (3) (b) thereof, the transport of milk directly from farms to a dairy or to a reload point, which involves the collection of milk from farms.

2. The transport mentioned in the first paragraph must be carried out under the following conditions; namely, that the existing national provisions shall remain in force for this transport, the continuous driving time shall be limited to five hours, the driving time shall not exceed 108 hours per period of two weeks and, where no weekly rest period is taken, a rest period equivalent to two weekly rest periods shall be taken at least every two weeks.

3. The authorization hereby granted shall be subject to a review before 1 January 1987 in the light of all the relevant circumstances then prevailing.

Article 2

The authorization granted under Article 1 shall also apply to the transport of untreated milk between reload points and dairies, subject to the same conditions, until 31 December 1984.

Article 3

The United Kingdom shall inform the Commission of the measures taken in implementation of this Decision.

Article 4

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 18 December 1981.

For the Commission

Giorgios CONTOGEORGIS

Member of the Commission