COUNCIL REGULATION (EEC) No 1421/78

of 20 June 1978

amending Regulation (EEC) No 804/68 on the common organization of the market in milk and milk products

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee,

Whereas the aim of the common agricultural policy is to attain the objectives set out in Article 39 of the Treaty; whereas, to that end, Regulation (EEC) No 804/68 (2), as last amended by Regulation (EEC) No 1038/78 (3), established a common organization of the market in milk and milk products; whereas in order to stabilize the markets and to ensure a fair standard of living for the agricultural community, the common organization provides in particular for intervention measures on the market; whereas, by reason of the high cost to the Community of the said intervention system, it appears appropriate to provide for other mechanisms for attaining the same objectives, thereby reducing recourse to intervention measures;

Whereas certain activities of the Milk Marketing Board existing in the United Kingdom have helped to channel the predominant quantity of milk produced in this Member State into direct human consumption; whereas the Milk Marketing Boards have certain prerogatives to ensure that they operate effectively; whereas they have in principle the exclusive right to purchase milk from producers established in their area;

Whereas it appears appropriate to enable these Boards and, in comparable situations, equivalent organizations to be recognized under the common organization of the market whilst ensuring that their prerogatives are compatible with Community law, while at the same time observing the general principles of the Treaty; whereas, to that end, the granting or maintenance of the said prerogatives should be conditional upon an examination of each individual case at Community level and upon authorization being granted to the Member State concerned,

HAS ADOPTED THIS REGULATION:

Article 1

Article 25 of Regulation (EEC) No 804/68 shall be replaced by the following:

'*Article 25*

1. At its request a Member State may be authorized to grant to an organization representing at least 80 % of the number and at least 50 % of the production of the milk producers established in the area in which the organization is carrying out its activities:

(a) the exclusive right, within the limits laid down in paragraph 3, to buy from producers established in the area in question the milk which they produce and market without processing, provided it satisfies minimum requirements to be determined. This right shall be coupled with the obligation on the organization in question to buy milk satisfying these minimal requirements offered to it by the producers concerned;

(b) the right to equalize the prices paid to producers, irrespective of the use for which the milk purchased from them is intended.

2. Authorization within the meaning of paragraph 1 may be granted only if the Council, acting by a qualified majority on a proposal from the Commission, has established that the quantity of milk used in the Member State concerned for direct human consumption in the form of whole milk or other fresh products constitutes:

(a) in relation to the milk produced and marketed in the Member State concerned, a percentage equal to at least 150 % of the corresponding proportion for the Community as a whole, and

(b) a greater per capita consumption than that for the Community as a whole.

(1) Opinion delivered on 16 June 1978 (not yet published in the Official Journal).
(2) OJ No L 148, 28. 6. 1968, p. 13.
(3) OJ No L 134, 22. 5. 1978, p. 4.

Authorization shall be maintained only for as long as these conditions are fulfilled.

3. At the same time as it acts under paragraph 2, and in accordance with the same procedure, the Council shall in each individual instance adopt general rules governing the granting and maintenance of the rights referred to in paragraph 1.

These rules shall include provisions :

(a) to ensure that exercise of such rights :

— is consistent with the general principles of the Treaty, in particular as regards the free movement of goods, and avoids discrimination against producers selling their milk to the organization and persons wishing to buy milk from it,

— does not affect competition in the agricultural sector more than is absolutely necessary, and

— does not jeopardize the efficient functioning of the market in milk and milk products, particularly as regards price and intervention arrangements ;

(b) relating to the circumstances in which the authorization referred to in paragraph 1 shall be withdrawn ;

(c) enabling the organizations concerned to adapt progressively to these provisions within a maximum period to be determined ; these provisions may not, however, affect the principles referred to in the first indent of subparagraph (a).

4. The rules for implementing this Article, and in particular the authorization referred to in paragraph 1, shall be adopted in accordance with the procedure provided for in Article 30.'

Article 2

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

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

Done at Luxembourg, 20 June 1978.

For the Council

The President

P. DALSAGER