COUNCIL REGULATION (EEC) No 1305/85

of 23 May 1985

amending Regulation (EEC) No 857/84 adopting general rules for the application of the levy referred to in Article 5c of Regulation (EEC) No 804/68 in the milk and milk products sector

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products (1), as last amended by Regulation (EEC) No 1298/85 (2), and in particular Article 5c (6),

Having regard to the proposal from the Commission,

Whereas certain producer groups and associations thereof, recognized under Regulation (EEC) No 1360/78 (3), should be treated in the same way as the producer within the meaning of Article 12 (c) of Regulation (EEC) No 857/84 (4), as last amended by Regulation (EEC) No 590/85 (5); whereas, in order to obtain equivalence in the effects of the arrangements for managing milk production, a higher levy should be fixed when it is due by these groups or their associations; whereas, moreover, for reasons of sound administration, the levy should in this case be paid to a body designated by the Member State concerned;

Whereas in order to take into account the particular situation of certain producers a system for the adjustment of reference quantities is provided for in Article 3 (3) of Regulation (EEC) No 857/84; whereas in Italy there are economic structures which are more than usually fragmented into small production units; whereas that situation is the source of considerable difficulties for the implementation of the aforesaid adjustment system; whereas that Member State should therefore be permitted to postpone temporarily the application of certain aspects of the said adjustment system in such regions;

Whereas the difficulties encountered for the implementation of the arrangements for managing milk production are likely to become worse in several Member States because of the reduction in the overall guaranteed quantities for deliveries in the second period of 12 months; whereas consequently it is appropriate to extend, for this period, the application of Article 4a of Regulation (EEC) No 857/84, authorizing Member States to allocate on a temporary basis to producers or purchasers the quantities not used by other producers or purchasers;

Whereas Article 5c (7) of Regulation (EEC) No 804/68 provides for a procedure for the adjustment of overall guaranteed quantities for deliveries to purchasers; whereas provision should be made for a similar and complementary measure enabling the total quantities relating to direct sales to be adjusted according to the same procedure;

Whereas experience has shown that the provisional quarterly levies should be abolished and provision made for one annual payment only; whereas, however, the obligation to make periodical statements must be retained, in order to follow the trend in deliveries and to allow producers to exercise better control over their production;

Whereas during the period of application of Article 4a, Member States who have adopted programmes of aid for the definitive abandonment of milk production should be authorized to finance those programmes by using the revenue from the levies collected; whereas, however, such authorization can be valid only to the extent that the quantities actually delivered to purchasers and the quantities of direct sales actually effected do not exceed, for the Member State concerned, the overall quantity established respectively for deliveries and direct sales,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 857/84 is hereby amended as follows:

1. The following subparagraph is added to Article 1 (1):

   'However, the levy shall be fixed at 100 % of the target price for milk, where formula A is applied, when the reference quantities are allocated to producer groups and associations thereof as referred to in Article 12 (c).'

2. In Article 3 (3) the following subparagraph is added:

   'For the first three periods of 12 months, Italy shall be authorized to postpone application of the first subparagraph.'

3. In Article 4a (1) 'For the first period of 12 months' is replaced by 'For the first two periods of 12 months'.

4. The following subparagraph is added to Article 6 (2):

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) See page 5 of this Official Journal.
(3) OJ No L 166, 23. 6. 1978, p. 1.
(4) OJ No L 90, 1. 4. 1984, p. 13.
(5) OJ No L 68, 8. 3. 1985, p. 1.

'These last-mentioned quantities shall, in so far as is necessary, be adjusted according to the conditions referred to in the second and third subparagraphs of Article 5c (7) of Regulation (EEC) No 804/68, according to the procedure provided for in Article 30 of the said Regulation.'

5. The following point is added to Article 8:

'3. The provisions referred to in points 1 and 2 shall also be applicable, where formula A is applied, when the reference quantities are allocated to the producer groups and associations thereof referred to in Article 12 (c).'

6. Article 9 (1) is replaced by the following:

'1. Where formulas A and B are applied, the levy shall be collected by means of annual payments. To this end there shall be adopted, for each person liable, an account after the end of the 12-month period concerned, on the basis of actual excess during this same period beyond his annual reference quantity. Provisional half-yearly statements shall be established according to a procedure to be determined.'

7. The following subparagraph is added to Article 9 (2):

'However, when the reference quantities are allocated to the producer groups and associations thereof as referred to in Article 12 (c), the levy shall be paid to the body designated by the Member State, according to a procedure to be determined.'

8. The following paragraph is added to Article 9:

'4. Member States shall be authorized, for the first two periods of 12 months, to allocate the levy collected to financing of the measures referred to in Article 4 (1) (a). This provision shall be applicable only to the extent that the quantities actually delivered to purchases and the quantities of direct sales actually effected do not exceed, respectively, the overall guaranteed quantity referred to in Article 5 (c) (3) of Regulation (EEC) No 804/68 and the total quantity referred to in Article 6 (2) of this Regulation for the Member State concerned.

Where one or other of those quantities is exceeded, the amount of the levy collected corresponding to the amount of the excess recorded shall be paid over to the Community.'

9. The first subparagraph of Article 10 is replaced by the following:

'Where formula B is applied, the purchaser liable for the levy shall recover it through the price paid to the producers for the period concerned, by reference to the quantity of milk or milk equivalent by which each of the producers has exceeded a quantity corresponding to that taken for the purposes of establishing the purchaser's reference quantity.'

10. The following subparagraph is added to Article 12 (c):

'Producer groups and associations thereof, recognized under Regulation (EEC) No 1360/78 and the statutes of which provide, in respect of associated producers, for the obligation referred to in the first indent of Article 6 (1) (c) of the said Regulation, shall be deemed to be producers.'

Article 2

This Regulation shall enter into force on the day of 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 Brussels, 23 May 1985.

For the Council

The President

C. SIGNORILE