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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 773/87

of 16 March 1987

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 Article 43 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Whereas experience has clearly shown that the application of the additional levy scheme under formula B as specified in Article 5c of Council Regulation (EEC) No 804/68 (3), as last amended by Regulation (EEC) No 231/87 (4), has not proved a sufficient deterrent to producers responsible for large excess quantities; whereas an allocation of the quantities not used by the purchaser in proportion to the individual reference quantities of those producers responsible for the purchaser's reference quantity's being exceeded will make the additional levy scheme more rigorous; whereas the rules on the operation of formula B should be adjusted accordingly, provision being made, however, for the possibility of derogations for priority producers;

Whereas, in certain regions of the Community in which formula B applies and a choice is possible among a large number of different purchasers, provision should be made, with the aim of attaining, as far as possible, equal treatment for producers, for the possibility of collecting the additional levy from producers who exceed their individual reference quantities by a considerable amount, irrespective of whether or not their purchasers' reference quantity has been exceeded; whereas, in order best to ensure the deterrent effect of the additional levy in this case, it is necessary, in the case of relatively large excess amounts, that this possibility should apply for the first time when the final accounts for the current marketing year are drawn up;

Whereas Articles 6 and 7 of Regulation (EEC) No 804/68 provide for the introduction of permanent intervention arrangements for butter and for skimmed-milk powder;

Whereas these arrangements no longer function as a mechanism for short-term stabilization of the market during the period of heavy production but have come to provide a more attractive outlet for production than the normal market outlets;

Whereas, during the period when skimmed-milk production is low, adequate measures will be taken, if necessary, to ensure the stability of the market; whereas consequently the purchase of skimmed-milk powder by the intervention agencies should be restricted to the period 1 March to 31 August;

Whereas, during the period of imposition of the additional levy provided for in Article 5c of Regulation (EEC) No 804/68, the Commission should be given the power to adjust the intervention purchasing arrangements for butter and for skimmed-milk powder, in particular by suspending intervention buying while providing for the granting of aid to private storage for skimmed-milk powder and by increasing the possibility of disposing of milk products;

Whereas the Commission should be authorized to adopt appropriate provisions should it happen that the measures adopted in this Regulation lead to under-supply of dairies which are important suppliers of the market and to over-supply of dairies which have excessive recourse to intervention,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 804/68 is hereby amended as follows:

1. In Article 5c (1), the second indent under the heading Formula B is replaced by the following three indents:

(1) OJ No C 33, 11. 2. 1987, p. 7.
(2) OJ No C 97, 24. 11. 1986, p. 112.
(3) OJ No L 148, 28. 6. 1968, p. 13.
(4) OJ No L 25, 28. 1. 1987, p. 3.

'— Should the quantities delivered exceed the purchaser's reference quantity, he shall pass on the burden of the levy in the price paid to those producers who contributed towards exceeding the quantity, after he has allocated to them, in proportion to their individual reference quantities, the quantities available for redistribution. However, Member States may provide that the quantities available for redistribution shall be reallocated as a matter of priority to certain producers supplying that purchaser or another pruchaser who meet objective criteria.

— Should the quantities delivered be equal to, or lower than, the purchaser's reference quantity, the Member State may nonetheless provide that the levy is due in its entirety from all producers who have exceeded their reference quantities by at least 10 % or at least 20 000 kilograms.

— The provisions referred to in the second and third indents may be applied for the first time when the final accounts for the 1986/1987 marketing year are drawn up.'

2. Article 7 (1) is replaced by the following :

'1. Under conditions determined in accordance with paragraph 4, the intervention agency designated by each Member State shall purchase at the intervention price first quality skimmed-milk powder produced in the Communtiy that is offered to it during the period 1 March to 31 August, if it meets certain conditions.'

3. The following Article is be added :

'Article 7a

1. On the basis of criteria to be adopted by the Council acting by a qualified majority on a proposal from the Commission, and until the end of the fifth 12-month period of application of the additional levy arrangements mentioned in Article 5c, the intervention arrangements specified in Articles 6 (1) and 7 (1) may be modified by the Commission, in accordance with the procedure provided for in Article 30, by the adoption of other measures designed to reduce the volume of intervention purchasing without affecting the stability of the market.

Should implementation of the measures to reform the market in milk and milk products disturb the balance of supplies to dairies, the Commission shall adopt, in accordance with the procedure mentioned in Article 30, provisions designed to discourage dairies from having excessive recourse to intervention.

2. Where the Commission exercises the option provided for in the first subparagraph of paragraph 1 :

(a) if it is decided to suspend purchases of skimmed-milk prowder by the intervention agencies, aid for the private storage of skimmed-milk powder shall be granted under the conditions defined in accordance with paragraph 3 ;

(b) special measures may be taken by the Commission, under the procedure laid down in Article 30, with a view to increasing the possibility of disposing of butter and skimmed-milk powder which has not been the subject of purchase by intervention agencies nor of aid to private storage, and the possibility of disposing of other milk products, such as cream.

3. The detailed rules for applying this Article shall be adopted under the procedure referred to in Article 30, and in particular the detailed rules for establishing the market prices for butter.'

Article 2

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

Part 1 of Article 1 shall apply with effect from 1 April 1987.

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

Done at Brussels, 16 March 1987

For the Council

The President

L. TINDEMANS