COUNCIL REGULATION (EEC) No 775/87

of 16 March 1987

temporarily withdrawing a proportion of the reference quantities mentioned in Article 5c (1) of 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,

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 773/87 [2], and in particular Article 5c (6) thereof,

Having regard to the proposal from the Commission,

Whereas the market in milk and milk products suffers from excess production and it has proved impossible to attain a reasonable balance between supply and demand despite the measures to curb production taken under Article 5c of Regulation (EEC) No 804/68 ; whereas a proportion of the reference quantities mentioned in paragraph 1 of that Article should therefore be temporarily withdrawn ; whereas it is necessary to make provision for the granting of compensation proportionate to the additional imposition on producers ; whereas, during the first year of application of the scheme, Member States should be permitted to increase compensation up to a maximum uniform amount set for the entire Community ; whereas, moreover, Member States should be authorized to withdraw, as from the said first year, the quantities provided for the second year of application to the extent that they pay producers compensation of an amount identical to that provided for the quantities for which withdrawal is compulsory as from that first year ;

Whereas, owing to the type of production structure which obtains in Italy and in Spain, application of a temporary and partial withdrawal scheme would give rise to special difficulties in these countries ; wehreas, therefore, in order to attain the objectives of the said scheme, Member States should be granted exemption from it subject to certain conditions ;

Whereas from the second year of application of the scheme provided for by this Regulation the proportion of the quantities withdrawn should be reviewed in the light of the market outlook and the stock position ;

Whereas the Community compensation is designed to re-establish balance on the market in the products concerned and can therefore be considered as intervention within the meaning of Article 3 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy [3], as last amended by Regulation (EEC) No 870/85 [4],

HAS ADOPTED THIS REGULATION :

Article 1

1. From the fourth 12-month period of application of the additional levy arrangements specified in Article 5c of Regulation (EEC) No 804/68, a uniform proportion of each reference quantity as mentioned in paragraph 1 of that Article shall be withdrawn.

This proportion shall be set to give a total withdrawn quantity of 4 %, for the fourth period, and of 5,5 %, for the fifth period, of the guaranteed total quantity for each Member State laid down in paragraph 3 of Article 5c of Regulation (EEC) No 804/68 for the third 12-month period.

However, Member States shall be authorized to withdraw, as from the fourth period, the quantities provided for the fifth period.

Where formula B is used or the second subparagraph of point (c) of Article 12 of Regulation (EEC) No 857/84 [5], as last amended by Regulation (EEC) No 774/87 [6], applies, the quantity withdrawn from each producer shall be obtained by using the same rate as used for partial withdrawal of the reference quantity from the purchaser, the producer group or the association of producer groups.

2. The additional levy referred to in Article 5c (1) of Regulation (EEC) No 804/68 shall be due on the amount of milk or milk equivalent, delivered or purchased during each of the 12-month periods in question that is in excess of the amount of the reference quantity not withdrawn.

Article 2

1. For the fourth and the fifth 12-month periods, producers shall be granted compensation for the quantities withdrawn.

[1] OJ No L 148, 28. 6. 1968, p. 13.
[2] See page 1 of this Official Journal.
[3] OJ No L 94, 28. 4. 1970, p. 13.
[4] OJ No L 95, 2. 4. 1985, p. 1.
[5] OJ No L 90, 1. 4. 1984, p. 13.
[6] See page 3 of this Official Journal.

Such compensation shall be fixed at 10 ECU per 100 kilograms. It shall be paid to entitled producers :

— during the first three months of 1988 in respect of the quantities withdrawn for the fourth period of twelve months,

— during the first three months of 1989 in respect of the quantities withdrawn for the fifth 12-months period, within the limit of the quantities referred to in the first indent.

Before 1 April 1988 the Council, acting by a qualified majority on a Commission proposal, shall decide whether the temporary withdrawal of quantities of a further 1,5 % during the fifth 12-month period shall be compensated by the compensation referred to in the second subparagraph or by an appropriate reduction in the co-responsibility levy referred to in Regulation (EEC) No 1079/77 [1], as last amended by Regulation (EEC) No 1302/85 [2].

2. Member States may make a financial contribution to the present measure by increasing the compensation for the quantities withdrawn during the fourth 12-month period up to 12,5 ECU per 100 kilograms.

3. Where the third subparagraph of Article 1 (1) is applied, the Member States concerned shall finance the total compensation for those quantities withdrawn which are in excess of 4 % of the guaranteed total quantity, as referred to in the second subparagraph of Article 1 (1).

Article 3

By way of derogating from Articles 1 and 2, the Italian Republic shall implement a programme for the voluntary discontinuation of milk production as provided for in Article 4 (1) (a) of Regulation (EEC) No 857/84 so as to attain the objectives referred to in Article 1 of this Regulation, without, however, jeopardizing the restructuring of milk production mentioned in Article 4 (1) of the aforesaid Regulation.

Article 4

By way of derogation from Articles 1 and 2, the Kingdom of Spain shall implement a scheme for partial and voluntary discontinuation or for partial and voluntary withdrawal of the reference quantities mentioned in Article 5c (1) of Regulation (EEC) No 804/68.

This scheme shall be applied with a view to attaining the objectives set out in Article 1 in the fourth and fifth 12-month periods.

The discontinuation scheme shall be financed in accordance with the provisions of Regulation (EEC) No 1336/86 [3]. The withdrawal scheme shall be financed in accordance with the provisions of Article 2 of this Regulation.

If appropriate, these provisions shall be adjusted by the Commission in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68.

Article 5

1. Member States shall provide the Commission with all the information it requires to assess the effectiveness of the measures provided for in this Regulation.

2. At the end of each of the fourth and fifth 12-month periods of application of the additional levy arrangements, the Commission shall assess the results obtained from the application of Articles 3 and 4 and shall if necessary submit appropriate proposals to the Council.

Article 6

The Commission shall, in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68, adopt implementing measures for this Regulation.

Article 7

The financing provided for in Article 2 (1) and in the third subparagraph of Article 4 shall be considered intervention within the meaning of Article 3 of Regulation (EEC) No 729/70.

Article 8

Before the end of the fourth 12-month period of the application of the additional levy arrangements the Council, on the basis of the market outlook and stock position, may, acating by a qualified majority on a proposal from the Commission, decide to restrict the rate of withdrawal of each reference quantity from the fifth 12-month period onwards to the rate adopted for the fourth period.

In that event, the third subparagraph of Article 2 (1) shall not be applicable.

Article 9

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

[1] OJ No L 131, 26. 5. 1977, p. 6.
[2] OJ No L 137, 27. 5. 1985, p. 9.
[3] OJ No L 119, 8. 5. 1986, p. 21.

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