COUNCIL REGULATION (EEC) No 3880/89

of 11 December 1989

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 3879/89 (2), and in particular Article 5c (6) thereof,

Having regard to the proposal from the Commission,

Whereas Regulation (EEC) No 857/84 (3), as last amended by Regulation (EEC) No 1117/89 (4), fixes the additional levy and specifies the rules for determining the reference quantities for purchasers and producers;

Whereas an analysis of the way the additional levy arrangements operate has shown an increasing tendency to produce more than the allocated reference quantities; whereas this tendency is due to the weakening of the binding effect of the arrangements; whereas the additional levy should be raised so as to strengthen the dissuasive effect;

Whereas the special situation of certain producers may be taken into account by the Member State for the allocation of additional or special reference quantities; whereas an analysis of the way the additional levy arrangements operate has also shown that the abovementioned provisions must be supplemented either for certain producers whose situation continues to cause concern, such producers being determined in each Member State on the basis of the objective criteria, or for all the producers in the Member States where, owing in particular to a linear reduction in the reference quantities, the implementation of Articles 3 and 4 of Regulation (EEC) No 857/84 has been effected by using the national reserve; whereas to that end the Community reserve has been increased as a result of a reduction of 1 % in the guaranteed total quantities; whereas, in addition, where special or additional reference quantities have been allocated to producers with priority by the Member State concerned in excess of its guaranteed total quantity, the quantities which the Member State may have at its disposal in the Community reserve should not be allocated to the abovementioned producers but the overrun recorded should be reduced;

Whereas, under the terms of Article 4 (1) (a) of Regulation (EEC) No 857/84, Member States may introduce national programmes for the purchase of reference quantities; whereas the Community provisions for the conditions of access of producers to these programmes set certain requirements with regard to the quantities to be discontinued; whereas it appears necessary after six years of application of the additional levy arrangements to relax these requirements, since otherwise the effectiveness of the said programmes would be impaired,

HAS ADOPTED THIS REGULATION:

Article 1

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

1. in Article 1 (1) first and second indents, '100 %' is replaced by '115 %';

2. the following Article is inserted:

'*Article 3b*

1. For the purposes of determining the reference quantities referred to in Article 2, the Member State may grant additional or special reference quantities within a limit of 1 % of the guaranteed total quantity fixed in the second subparagraph of Article 5c (3) of Regulation (EEC) No 804/68:

— to producers as referred to in Articles 3 and 4 (1) (b),

— to producers determined in particular on the basis of one or more of the following criteria:

  — producers who are new entrants,

  — producers whose individual reference quantities are less than or equal to 60 000 kilograms,

  — the siting of milk production in one of the zones as defined in Article 3 (3), (4) and (5) of Directive 75/268/EEC (*), as last amended by Regulation (EEC) No 797/85 (**),

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) See page 1 of this Official Journal.
(3) OJ No L 90, 1. 4. 1984, p. 13.
(4) OJ No L 118, 29. 4. 1984, p. 10.

— or to all the producers of the Member State if, on its territory, the implementation of Articles 3 and 4 has been carried out on quantities coming from the national reserve.

Member States shall forward to the Commission, for prior approval, their draft national measures for the implementation of the first subparagraph. The Commission shall decide on these measures taking into account the criteria mentioned in the first subparagraph. These criteria may be adapted and/or supplemented, if justified by the diversity in national situations.

2. However, the Member States which have allocated special or additional reference quantities pursuant to Articles 3 and 4 of this Regulation in excess of the guaranteed total quantity referred to in Article 5c (3) (d) of Regulation (EEC) No 804/68 may apply paragraph 1 only if and to the extent that the recorded overrun is less than the quantities available for the Member States concerned in the Community reserve.

(*) OJ No L 128, 19. 5. 1975, p. 1.
(**) OJ No L 93, 30. 3. 1985, p. 1.';

3. in Article 4 (1), point (a) is replaced by the following:

'(a) grant to producers who undertake to discontinue all or part of their milk production definitively compensation paid in one or more annual payments;'.

Article 2

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

It shall apply:

— from the beginning of the sixth period of application of the additional levy arrangements with regard to Article 1 (2),

— from the beginning of the seventh period of application of the additional levy arrangements with regard to Article 1 (1).

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

Done at Brussels, 11 December 1989.

For the Council
The President
H. NALLET