COUNCIL REGULATION (EEC) No 2069/92

of 30 June 1992

amending Regulation (EEC) No 3013/89 on the common organization of the market in sheepmeat and goatmeat

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),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas experience indicates that Regulation (EEC) No 3013/89 (4) requires certain amendments;

Whereas it is opportune for administrative purposes that the latest date for the payment of the premium provided for in Article 5 of Regulation (EEC) No 3013/89 should coincide with the end of the budgetary year;

Whereas the upward trend in ewe numbers in the Community and the resulting substantial drop in prices are having serious repercussions on the market balance; whereas, while being partly curbed by the various measures introduced in recent years, in particular as regards prices and stabilizers, this trend has nevertheless resulted in an increase in production and in EAGGF expenditure during the last four years;

Whereas further, more severe measures should be introduced by imposing, subject to special provisions applicable to producer groups, an individual limit on each producer based on the total premiums granted for the 1991 marketing year to each producer;

Whereas, in order to take account of trends in production throughout the Community, this total should however be multiplied by a coefficient established for each Member State and representing the ratio between the total number of ewes eligible at the beginning of 1989, 1990 or 1991 and the total number of eligible animals conferring entitlement to the premium for the 1991 marketing year; whereas, however, special provisions must be adopted for Germany in order to take account of certain specific problems in the new 'Länder';

Whereas new producers and existing producers whose reference flocks are not in line with the normal trend in ewe numbers must not be excluded from entitlement to the premium; whereas, to that end, provision should be made for a national reserve made up initially of a flat-rate levy on the individual limits of all producers; whereas provision should be made to increase the reserve in less-favoured areas;

Whereas changes in production may be made necessary by possible alterations to the assets or production capacity of recipients; whereas, therefore, provision should be made that entitlements to the premium acquired in respect of individual limits may be transferred under certain conditions to other producers; whereas, in order to make the system of transfer as flexible as possible, it is appropriate to allow the transfer of rights to take place also without the transfer of the holding; whereas it is appropriate to submit the transfer to rules which allow some rights to be surrendered without payment to the national reserve in order that it can provide, in particular, rights for new entrants;

Whereas, in order to take account of the fact that producers should be permitted to reduce their production for a limited period, it is appropriate to authorize the Member States to foresee the possibility for a temporary transfer of premium rights;

Whereas it is opportune to estabish a link between sensitive zones or localities and the production of sheep and goats so as to ensure the maintenance of this production especially in areas where there is no other alternative;

Whereas the introduction of the above arrangements, by maintaining flock numbers at their existing level, should reduce very appreciably the risk of budgetary overspending; whereas, in these circumstances, the coefficient for reducing the basic price referred to in Article 8 (2) of that Regulation should be fixed at the level adopted for the 1990 marketing year,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3013/89 is hereby amended as follows:

1. In Article 5:

   — in paragraph 3 and 5 '70%' shall be replaced by '80%',

   — the text of the fourth subparagraph of paragraph 6 shall be replaced by the following text:

(1) OJ No C 303, 22. 11. 1991, p. 35.
(2) OJ No C 125, 18. 5. 1992.
(3) OJ No C 98, 21. 4. 1992, p. 20.
(4) OJ No L 289, 7. 10. 1989, p. 1. Regulation as last amended by Regulation (EEC) No 3246/91 (OJ No L 307, 8. 11. 1991, p. 16).

'The amount of the final premium shall be determined without delay after the end of the marketing year in question and not later than 31 March. Before 15 October of the same year, any balance, where appropriate, shall be paid.';

2. The following Articles shall be inserted:

'Article 5a

1. An individual limit per producer is hereby introduced in respect of the grant of the premium provided for in Article 5.

In the case of producers who have been granted the premium prior to the 1992 marketing year, the premium shall be paid for the 1993 marketing year and subsequent years within the limits of the number of animals for which the premium has been paid for the 1991 marketing year, such number being multiplied by the coefficient referred to in paragraph 5.

However, where this coefficient is higher than one, Member States may decide to use, in whole or in part, the additional number of rights to the premium resulting therefrom in order to stock the reserve referred to in Article 5b (1).

These limits shall be reduced in such a way as to enable the national reserve referred to in Article 5 (b) (1) to be constituted.

2. In the case of natural circumstances which led to a non-payment or to a reduced payment of the premium for the 1991 marketing year, the number of animals corresponding to the payments made during the most recent marketing year shall be used. In the case of non-payment of the premium or of reduced payment for the 1991 marketing year, as a result of the imposition of penalties provided for to that end, the number recorded during the check which gave rise to those penalties shall be used.

3. In the case of groups, associations or other forms of cooperation between producers, the limits laid down in paragraph 1 shall be applied individually to each associate member in accordance with the following rule:

(a) where the group has notified the competent authority of the formula for apportioning livestock referred to in Article 2 (2) of Regulation (EEC) No 2385/91 [1] in respect of the 1991 marketing year, in accordance with Article 4 of that Regulation, those limits shall be fixed for each producer member using that formula as a basis;

(b) where the group has not notified the competent authority of the formula for apportionment referred to in (a) in respect of the 1991 marketing year, the premium shall be paid to the group in respect of not more than the number of animals for which it was granted to the group for the 1991 marketing year, in accordance with the rules laid down in paragraph 1. An individual limit shall be fixed for each producer member in respect of the 1993 marketing year, in accordance with the allocation formula communicated by the group.

In the event of subsequent changes in the membership of the group, account shall be taken, when the premium is paid to the group, of the individual limit of each producer member who has joined or left the group.

4. (a) The right to premium attaches to producers who have been granted the premium in respect of the 1991 marketing year and who have also applied for a premium, under the 1992 marketing year.

(b) When a producer sells or otherwise transfers his holding, he may transfer all his premium rights to the person who takes over his holding.

He may also transfer, in whole or in part, his rights to other producers without transferring his holding. According to the procedure provided for in Article 30, the Commission may draw up specific rules relating to the minimum number which could form the subject of the partial transfer.

In the case of a transfer without transfer of the holding, a part of the premium rights transferred, not exceeding 15%, shall be surrendered without compensation to the national reserve of the Member State where his holding is situated for free distribution to new entrants or other priority producers referred to in Article 5 (b) (2).

(c) Member States:

— must take the necessary measures to avoid premium rights being moved away from sensitive zones or regions where sheep production is especially important for the local economy,

— may provide either that the transfer of the rights without transfer of the holding is carried out directly between the producers or that it is carried out through the intermediary of the national reserve.

(d) Member States may authorize, before a date to be fixed, temporary leases of that part of the premium rights which the producer, who is entitled thereto, does not intend to use.

(e) Entitlement to the premium transferred or temporarily leased to a producer shall be aggregated with that originally granted to him.

However, the premium actually granted at the full rate shall not exceed the limits fixed in Article 5 (7).

(f) The Commission shall lay down the detailed rules for implementing this paragraph in accordance with the procedure provided for in Article 30, and in particular those rules which enable Member States to determine, bearing in mind the structure of their flocks, the reduction

[1] OJ No L 219, 7. 8. 1991, p. 15.

referred to in paragraph 1 and those enabling Member States to resolve specific problems linked to the transfer of premium rights by producers who do not own the areas on which their holdings are situated.

5. For the purpose of applying paragraph 1, Member States shall establish a single coefficient representing the ratio between:

(a) the total number of eligible animals conferring entitlement to the premium present at the beginning of one of the 1989, 1990 or 1991 marketing years on the holdings of beneficiaries, and

(b) the total number of eligible animals conferring entitlement to the premium for the 1991 marketing year.

Member States shall inform the Commission before 31 October 1992 of the year which they have chosen for the purpose of point (a) above.

Article 5b

1. Each Member State shall establish an initial national reserve equal to at least 1 % and at most 3 % of the sum of the individual limits applicable to producers whose holdings are situated in its territory. The national reserve shall also receive the entitlements pursuant to Article 5a (4) (b).

For Germany, the initial national reserve shall be calculated on the basis of the total number of the sum of the individual limits applicable to producers whose holdings are situated in the former German 'Länder'. This reserve concerns only those producers.

2. Member States shall use their national reserves to grant, within the limits of the reserves, entitlements to the following producers in particular:

(a) producers who have submitted an application for a premium prior to the 1992 marketing year and who have shown, to the satisfaction of the competent authority, that the application of the limits, pursuant to Article 5a, would jeopardize the viability of their holdings, taking into consideration the implementation of an investment programme in the sheep and goat sector drawn up before 1 January 1993;

(b) producers who have submitted, in respect of the 1991 marketing year, an application for a premium which, owing to exceptional circumstances, does not correspond to the true situation as ascertained in previous marketing years;

(c) producers who have regularly submitted an application for a premium without having submitted an application in respect of the 1991 marketing year;

(d) producers who submit an application for a premium for the first time in the 1993 or subsequent marketing years;

(e) producers who have acquired part of an area formerly used for sheep and/or goat production by other producers.

3. An additional reserve shall be created equal to 1 % of the sum of the limits of individual producers in the less-favoured areas of each Member State; this reserve shall be allocated exclusively to producers in these same areas in accordance with criteria to be defined by Member States.

For Germany, the additional reserve shall be equal to 1 % of the sum of the individual limits applicable to producers whose holdings are situated in the less-favoured areas of the former German 'Länder'. This reserve concerns only those producers.

4. Detailed rules for the application of Article 5a and this Article shall be laid down in accordance with the procedure provided for in Article 30.

In accordance with the same procedure:

— measures applicable in cases where the national reserve in a Member State is not allocated shall be adopted, and

— transitional measures necessary to facilitate the passage between the existing arrangements and those laid down by this Regulation shall be adopted and, in particular, those concerning producers and groups referred to in Article 5 a (1) and (3) who have received the premium for the first time in respect of the 1992 marketing year.

5. The Commission shall submit to the Council before 1 July 1996 a report on the application of the arrangements laid down in Article 5a and in this Article together with, where appropriate, any necessary proposals.

Article 5c

1. By way of derogation from Article 5a (1) for the new Länder of Germany:

(a) a regional ceiling of 1 million eligible animals shall be fixed; this quantity shall cover both quantities to be distributed initially and the reserve to be established for this territory;

(b) Germany shall determine the conditions for the distribution of this ceiling and its regional breakdown.

2. The Commission shall lay down the detailed rules for implementing this Article in accordance with the procedure provided for in Article 30.

3. Before the end of the 1995 marketing year, the Commission shall submit to the Council a report with proposals for the application in the territories of the new German Länder of the provisions applicable in the rest of the Community.

Before the end of the 1996 marketing year, the Council shall decide on these proposals.';

3. Article 8 (4) shall be replaced by the following:

'4. However, from the 1993 marketing year, the coefficient for reducing the basic price referred to in paragraph 2 shall be 7 %.'

Article 2

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

It shall apply with effect from the 1993 marketing year, with the exception of the first indent of point 1 of Article 1, which shall apply from the 1992 marketing year.

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

Done at Luxembourg, 30 June 1992.

For the Council

The President

Arlindo MARQUES CUNHA