# COUNCIL REGULATION (EC) No 1538/95

## of 29 June 1995

## amending Regulation (EEC) No 804/68 on the common organization of the market in milk and milk products

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European 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 Article 7 of Regulation (EEC) No 804/68 [4], lays down an intervention scheme for skimmed milk powder the objective of which is to support the enhancement of the value of milk proteins; whereas recent trends on the milk and milk products market reveal a significant increase in the relative value of the protein proportion of milk; whereas that trend is reflected both in the level of milk prices paid to the producer and in the level of prices of milk products sold on the Community and international markets; whereas, in addition, methods have been developed enabling the protein content of milk intended for processing to be manipulated; whereas, in order to avoid distortion between operators tendering for public intervention and in the interests of the proper administration of Community funds, a minimum requirement should be set for the protein content of skimmed milk powder bought into intervention; whereas that content should be fixed taking account of current commercial standards and in such a way that it cannot act as a criteria for exclusion from intervention;

Whereas Council Regulation (EEC) No 1014/68 of 20 July 1968 laying down general rules for the public storage of skimmed milk powder [5] lays down provisions concerning the conditions for interrupting and resuming purchases which no longer conform to the provisions of Article 7 of Regulation (EEC) No 804/68; whereas, for the purposes of simplification and clarification, the other general rules laid down in Regulation (EEC) No 1014/68 should be incorporated into the said Article 7 and the latter Regulation should therefore be repealed;

Whereas, for the same reasons, Council Regulation (EEC) No 1285/70 of 29 June 1970 laying down a special measure for the disposal of skimmed milk powder bought in by intervention agencies [6] should also be repealed and its provisions incorporated into Article 7 of Regulation (EEC) No 804/68,

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 7 of Regulation (EEC) No 804/68 is hereby replaced by the following:

'*Article 7*

1. The intervention agency designated by each of the Member States shall, under conditions to be determined, buy in at the intervention price top quality skimmed milk powder made by the spray process and obtained in an approved undertaking in the Community, directly and exclusively from skimmed milk which is offered to it during the period 1 March to 31 August and which:

— meets a minimum protein content of 35,6 % by weight of the non-fatty dry extract,

— meets preservation requirements to be laid down,

— meets conditions to be determined as regards the minimum quantity and packaging.

However, intervention agencies shall also buy in skimmed milk powder whose protein content is at least 31,4 % and less than 35,6 %, of the non-fatty dry extract, provided that the other provisions laid down in subparagraph 1 above are met. In that case, the buying-in price shall be equal to the intervention

[1] OJ No C 99, 21. 4. 1995, p. 20.
[2] OJ No C 151, 19. 6. 1995.
[3] OJ No C 155, 21. 6. 1995, p. 21.
[4] OJ No L 148, 28. 6. 1968, p. 13. Regulation as last amended by Regulation (EC) No 3290/94 (OJ No L 349, 31. 12. 1994, p. 105).
[5] OJ No L 173, 22. 7. 1968, p. 4. Regulation as last amended by Regulation (EEC) No 3577/90 (OJ No L 353, 17. 12. 1990, p. 23).
[6] OJ No L 144, 2. 7. 1970, p. 1.

price less 1,75 % for each percentage point by which the protein content is lower than 35,6 %.

The intervention price shall be that in force on the day of manufacture of the skimmed milk powder and shall apply to skimmed milk powder delivered to the store designated by the intervention agency. Flat-rate transport costs shall be borne, under conditions to be fixed, by the intervention agency if the skimmed milk powder is delivered to a store situated at a distance greater than a distance to be determined from the place where the skimmed milk powder was in store.

The skimmed milk powder may only be stored in stores meeting conditions to be fixed.

2. Aid for the private storage of skimmed milk powder of top quality obtained, in an approved undertaking in the Community, directly and exclusively from skimmed milk may be granted if trends in prices and stocks of the products indicate a serious imbalance in the market which could be avoided or reduced by means of seasonal storage. In order to be eligible for aid, the skimmed milk powder must meet conditions to be fixed.

The aid shall be fixed in the light of storage costs and the likely trend in prices for skimmed milk powder.

Private storage aid shall be subject to the drawing-up of a storage contract concluded, in accordance with provisions to be laid down, by the intervention agency of the Member State on whose territory the skimmed milk powder qualifying for the aid is stored. Where the market situation so requires, the Commission may decide, in accordance with the procedure laid down in Article 30, to remarket some or all of the skimmed milk powder covered by private storage contracts.

3. Skimmed milk powder bought in by the intervention agency shall be disposed of under conditions to be determined so as to avoid disturbing the balance on the market and to ensure purchasers equal treatment and access to the skimmed milk powder to be sold.

Purchasers shall be guaranteed equal access to the skimmed milk powder sold by the intervention agency either by a sale under a tendering procedure, by a sale to any interested party at a fixed price, or by any other method providing equivalent guarantees.

The sale price of the top quality skimmed milk powder may not be lower than a minimum price to be fixed taking account of the market situation and storage costs, in such a way as to maintain the possibility of voluntar y storage.

Where the skimmed milk powder held by the intervention agency is put up for sale with a view to its export, special conditions may be laid down to ensure that the product is not diverted from its destination and to take account of requirements specific to such sales.

Skimmed milk powder which cannot be disposed of during a milk year under normal conditions may be sold at a reduced price if it is intended for the feeding of pigs and poultry.

4. Within the meaning of this Regulation, "skimmed milk" means skimmed milk obtained directly and exclusively from cow's milk produced in the Community.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 30.'

*Article 2*

Regulations (EEC) No 1014/68 and (EEC) No 1285/70 are hereby repealed.

*Article 3*

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

It shall apply from 1 March 1996.

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

Done at Luxembourg, 29 June 1995.

*For the Council*

*The President*

J. BARROT