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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2598/95

of 30 October 1995

amending Regulation (EEC) No 3763/91 introducing specific measures in respect of certain agricultural products for the benefit of the French overseas departments

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),

Whereas, in accordance with Title V of Council Decision 89/687/EEC of 22 December 1989 establishing a programme of options specific to the remote and insular nature of the French overseas departments (Poseidom) (3) and Article 23 of Regulation (EEC) No 3763/91 (4), the Commission has produced a progress report for 1992-93 on the measures undertaken to implement the Poseidom programme and the measures laid down in the said Regulation ;

Whereas, on the basis of both the assessment in the Commission report, particularly as regards the difficulties observed in 1992 and 1993, and the applications submitted by the French authorities under the current partnership procedure, some adjustments to Regulation (EEC) No 3763/91 are necessary ;

Whereas the arrangements should be revised in such a way as to achieve the technical and drafting alignments as a result of the subsequent adoption and implementation of the Poseican programme for the Canary Islands and the Poseima programme for the Azores and Madeira ;

Whereas, in the case of the specific supply arrangements, the period of applicability of the measures for meeting the needs of the department of French Guiana as regards compound feedingstuffs should, given the delay in implementation, be extended until the plants manufacturing such products actually commence operations in that department ;

Whereas the volume of rice production in French Guiana attracting aid for disposal and marketing in Guadeloupe and Martinique must be increased to take account of profitability requirements ; whereas it must also be possible for a limited quantity of that production to be marketed in the rest of the Community ;

Whereas the specific supply arrangements must be extended to certain other products to meet the needs of the processing industries located in the French overseas departments, hereinafter referred to as 'FOD', in order to supply local demand ;

Whereas, in the case of the measures to encourage livestock production, the period in which the specific supply arrangements relating to bovine animals for fattening and consumption in the FOD application should be extended so as to take account of the delay in their implementation ; whereas the goal of increasing the currently very low local self-sufficiency rates in adult bovine animals and suckler cows justifies waiving the provisions of the common organization of the market under Poseidom, particularly the criteria regarding stocking density which were established to restrict intensive livestock rearing in the rest of the Community ; whereas, for a transitional period, provision should be made to contribute funds to the regional programmes to support the production and marketing of local products in the livestock and milk products sectors in Martinique and Réunion, which have been drawn up and carried out in close collaboration with the most representative inter-branch organizations currently operating ;

Whereas the poor conditions under which the local FOD market is supplied with fresh milk products, most of which are currently imported, should be remedied ; whereas this aim can be achieved by replacing the consumption aid scheme, which has proved inadequate,

(1) OJ No C 290, 18. 10. 1994, p. 4.
(2) OJ No C 43, 20. 2. 1995, p. 134.
(3) OJ No L 399, 30. 12. 1989, p. 39.
(4) OJ No L 356, 24. 12. 1991, p. 1. Regulation as last amended by Regulation (EEC) No 3714/92 (OJ No L 378, 23. 12. 1992, p. 23).

by an aid scheme to develop the production of cow's milk within the limits of local consumption requirements as assessed on a regular basis in a supply balance, and by waiving the additional levy scheme applicable to producers of cow's milk provided for in Regulation (EEC) No 3950/92 (1); whereas the adverse supply conditions which characterize those remote regions, differing fundamentally from the conditions in the rest of the Community, together with the need to stimulate the development of local production, justify this exception;

Whereas, as regards the measures to support local production, the aid scheme per hectare for fruit and vegetables has proved unsuitable, especially because of the insufficient amounts granted and the lack of any differentiation of the amounts according to the crops involved; whereas aid for marketing such products for the exclusive supply of the FOD market, granted for quality products covered by medium-term supply contracts concluded with distributors, restaurants and the like and local authorities, the amount of which would be fixed on the basis of the average value of the products involved, appears to be the most suitable approach in the FOD;

Whereas measures must also be taken, within the limit of set quantities, to support certain traditional products such as vanilla, geraniums or vetiver, to develop the processing of certain fruits and vegetables from products harvested locally and to stimulate the marketing of those products using existing mechanisms,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3763/91 is hereby amended as follows:

1. The heading of Title I shall be replaced by the following:

   'Measures to promote supplies to the FOD, to encourage livestock farming there and to develop rice cultivation in French Guiana'.

2. Article 2 shall be amended as follows:

   (a) Paragraph 1 shall be replaced by the following:

   '1. Each year, a forecast supply balance shall be established for the agricultural products necessary for human consumption and processing referred to in this Article and in the Annex. This balance may be revised during the year on the basis of trends in the FOD's requirements.'

   (b) Paragraphs 3, 4, 5 and 6 shall be replaced by the following:

   '3. Without prejudice to the application of paragraph 2 and Article 3 (1) to cereal products, duties shall not apply to imports into the FOD of the products listed in the Annex which are covered by the specific supply arrangements, if they originate in developing countries, within the limit of the quantities determined in the supply balance referred to in paragraph 1.

   In the event of exceptional supply difficulties, however, exemption from duty may be extended to products originating in other third countries.

   4. To ensure coverage of the requirements established in accordance with paragraph 1 in terms of quantity, price and quality, supplies to the FOD shall also be effected by mobilizing Community products held in public intervention storage or available on the Community market, on terms equivalent, for the end user, to the advantage resulting from exemption from import duties on imports of products from third countries.

   The terms of supply shall be fixed with reference to the costs of the various sources of supply and the prices applied to exports to third countries.

   5. Entitlement under the supply arrangements provided for in this Article and in Article 3 (1) shall be subject to the conditions that the economic advantage derived either from exemption from the import duty or from Community aid in the case of supply from the rest of the Community is actually passed on to the end user.

   6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 (*) or the corresponding Articles of the other Regulation on the common organization of the markets in question. They shall cover in particular:

   — the establishment of the balances, and any amendments thereto,

   — the amount of aid granted for supply from the rest of the Community,

   — the application, where appropriate, of the second subparagraph of paragraphs 2 and 3,

(1) OJ No L 405, 31. 12. 1992, p. 1. Regulation as last amended by Regulation (EC) No 1883/94 (OJ No L 197, 30. 7. 1994, p. 25).

— the measures to ensure that the advantages are actually passed on to the end user and to ensure, insofar as is necessary, an import licensing system.

(*) OJ No L 181, 1. 7. 1992, p. 21. Regulation as last amended by Regulation (EC) No 1866/94 (OJ No L 197, 30. 7. 1994, p. 1).'

3. Article 3 shall be amended as follows:

(a) The first subparagraph of paragraph 1 shall be replaced by the following:

'As from 1 July 1994 and until such time as the corresponding manufacturing plants in the department of French Guiana actually commence production, the products falling within CN codes 2309 90 31, 2309 90 33, 2309 90 41, 2309 90 43, 2309 90 51 and 2309 90 53 which are used there for animal feed shall be covered by the supply arrangements under the conditions laid down in this paragraph and in Article 2 (1), (3), (4), (5) and (6).'

(b) In the second subparagraph of paragraph 1, the reference to 'Article 14 (1) of Regulation (EEC) No 2727/75' shall be replaced by a reference to 'Article 11 of Regulation (EEC) No 1766/92'.

(c) The following fourth subparagraph shall be added to paragraph 1:

'Verification that the plants mentioned in the first subparagraph have commenced production and abolition of the supply arrangements as provided for in this paragraph shall be effected in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92.'

(d) Paragraph 3 shall be replaced by the following:

'3. Community aid shall be granted for the conclusion of annual contracts concerning the disposal and marketing in Guadeloupe, Martinique and the rest of the Community of rice harvested in French Guiana, within the limit of an annual volume of 12 000 tonnes of wholly milled rice equivalent. As regards disposal and marketing in the rest of the Community, aid shall be granted for a maximum of 4 000 tonnes.

The contracts shall be concluded between producers in French Guiana and natural or legal persons established in Guadeloupe, Martinique or the rest of the Community.

The amount of the aid shall be 10 % of the value of the marketed produce sold in Guadeloupe, Martinique or the rest of the Community, for merchandise delivered at the first port of unloading. That percentage shall be raised to 13 % if the contractor for the producers is a producer group or association thereof.

The aid shall be paid to the purchaser who markets the products under the annual contracts.'

(e) In paragraph 4, the words 'Article 14 (1) of Regulation (EEC) No 2727/75' shall be replaced by the words 'Articles 10 and 11 of Regulation (EEC) No 1766/92'.

(f) In paragraph 5, the words 'Article 26 of Regulation (EEC) No 2727/75' shall be replace by the words 'Article 23 of Regulation (EEC) No 1766/92'.

4. Article 5 shall be replaced by the following:

'Article 5

1. The supplementary aid provided for in (a) and (b) below shall be granted in support of traditional activities connected with beef and veal production and measures to improve product quality, within the limits of the consumption needs of the FOD as assessed in the context of a periodic supply balance. The balance shall also take account of breeding animals supplied pursuant to Article 4 and animals covered by the supply arrangements provided for in Article 7.

(a) A supplement to the special premium for fattening male bovine animals provided for in Article 4b of Regulation (EEC) No 805/68 shall be paid to beef and veal producers. The amount of the supplement shall be ECU 48,30 per head.

(b) A supplement to the premium for maintaining suckler cows provided for in Article 4d of Regulation (EEC) No 805/68 shall be paid to beef and veal producers. The amount of the supplement shall be ECU 48,30 for each suckler cow held by the producer.

2. The provisions relating to:

(a) the regional ceiling laid down by Article 4b of Regulation (EEC) No 805/68 as regards the basic special premium;

(b) the individual ceiling for animals kept on the holding laid down in Article 4d of the aforementioned Regulation, as regards the basic suckler cow premium;

(c) the stocking density in the case of animals kept on the farm, laid down in Article 4g of that Regulation, as regards the basic special premium and the basic suckler cow premium,

shall not apply in the FOD in the case of the basic special premium, the basic suckler cow premium or the supplementary premiums referred to in paragraph 1 (a) and (b).

3. The basic and supplementary premiums referred to in paragraphs 1 and 2 shall be granted each year for a maximum of 10 000 male bovine animals and 35 000 suckler cows, respectively.

However, those ceilings and the balance referred to in paragraph 1 may be revised on the basis of trends in requirements, in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68 or Article 27 of Regulation (EEC) No 805/68.

Further conditions governing the grant of the supplementary premiums may be laid down using the same procedure.

4. The detailed rules to be adopted for implementing this Article:

(a) as regards the special premium for male bovine animals, shall provide for:

— the "freezing", within the regional ceiling set in Article 4b (3) of Regulation (EEC) No 805/68, of the number of animals in respect of which the special premium was granted in the FOD,

— the granting of basic and supplementary premiums within the limit of 90 animals per age group, per calendar year and per holding;

(b) as regards the suckler cow premium, these detailed rules:

— shall include provisions to guarantee, to the extent necessary, the rights of producers to whom a premium has been granted under Article 4d (2) of Regulation (EEC) No 805/68,

— may provide for the establishment of a specific reserve for the FOD and special conditions for allocating or reallocating rights, taking into account the objectives pursued in the livestock farming sector; the size of the reserve shall be determined on the basis of the ceiling set in paragraph 3 and the number of premiums granted for the year 1994.

The detailed implementing rules may include additional conditions for granting further premiums.

5. Before the end of the third year of actual application of this Article, the Commission shall submit an assessment of the implementation of the specific provisions relating to livestock farming.'

5. Article 6 shall be replaced by the following:

'Article 6

1. Aid shall be granted to increase the production of cow's milk, within the limits of local FOD human consumption of milk products determined in the context of a periodic annual balance. The quantities of milk used for the manufacture of skimmed milk intended for animal feed shall not be eligible for aid.

The aid shall be granted to producers and producer groups for the quantities delivered to dairies. It shall be paid through the dairies.

The aid shall be ECU 8,45 per hundred kilograms of whole milk.

The balance may be revised during the year on the basis of trends in requirements, in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68.

Aid shall be paid each year within the limits of a maximum quantity of 20 000 tonnes of milk. That maximum quantity shall be reviewed by the Council, at the end of the third year of application of this measure, on a proposal from the Commission accompanied by an assessment report.

2. The additional levy scheme applicable to producers of cow's milk provided for in Council Regulation (EEC) No 3950/92 (*) shall not apply in the FOD from 1 April 1994.

(*) OJ No L 405, 31. 12. 1992, p. 1.'

6. Article 7 shall be replaced by the following:

'Article 7

During the period 1991/1992 to 1996/1997:

1. the import duties referred to in Article 9 of Regulation (EEC) No 805/68 and applying in the beef and veal sector shall not be applied to imports of bovine animals from third countries entering the FOD for fattening purposes and intended for consumption there;

2. aid shall be granted for the supply in the FOD, on equivalent terms, of animals as referred to in point 1 originating in the rest of the Community.

The number of animals concerned by the measures referred to in the first paragraph shall be based on the supply balance referred to in Article 5 and determined degressively to take account of the development of local production. The number of animals in question and the amount of the aid referred to in point 2 above shall be determined in accordance with the procedure laid down in Article 27 of Regulation (EEC) No 805/68.'

7. In Article 8, the following paragraphs shall be added:

'Products mentioned in the first paragraph which are covered by the specific supply arrangements and products processed therefrom shall not be eligible for refunds on exportation from the FOD.

Detailed rules for the application of this Article shall be adopted as necessary, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 or the corresponding Articles of the Regulations on the common organization of the markets in question.'

8. The following Article shall be added:

'Article 9a

1. In the five-year period 1996 to 2000 aid shall be granted annually to implement in both Martinique and Réunion a comprehensive programme to support the production and marketing of local produce in the livestock and milk products sectors.

The programme may include measures to encourage improved quality and hygiene, the marketing and promotion of quality products, the establishment of intermediate stages, rationalization of production and marketing structures and the provision of technical assistance. The programme may not include the granting of aid in addition to the premiums paid under Articles 5, 6 and 7.

The programme shall be prepared and carried out by the competent authorities designated by the Member State, working in close collaboration with the most representative inter-branch organizations existing on 1 July 1994 in the sectors concerned.

2. The competent authorities shall submit the draft annual programme each year to the Commission before 1 July and for the first year before 15 December 1995. It shall be approved in accordance with the procedure laid down in Article 27 of Regulation (EEC) No 805/68.

Six months before the end of the five-year period, the Commission shall send the European Parliament and Council an assessment of the way in which the measure provided for in this Article has been implemented, accompanied by appropriate proposals, where necessary.'

9. Article 13 shall be replaced by the following:

'Article 13

1. Aid shall be granted in respect of the fruits, vegetables, flowers and live plants listed in Chapters 6, 7 and 8 of the combined nomenclature, the peppers and fruits of the genus *Capsicum* and of the genus *Pimenta* falling within CN code 0904 and the spices falling within CN code 0910 intended to supply the FOD market exclusively. The aid shall not be granted for bananas other than plantains falling within CN code 0803 00 11.

The aid shall be granted for products which conform to common standards fixed by Community legislation or which conform to specifications written into the supply contracts.

The grant of the aid shall be subject to the conclusion of supply contracts lasting one or more years between the individual producers or producer groups or associations recognized under Regulations (EEC) No 1035/72 (*) or (EEC) No 1360/78 and distributors, restaurants and the like or local authorities.

The aid shall be paid out within the limits of annual quantities established for each product category.

The amount of the aid shall be fixed on a flat-rate basis for each of the product categories to be determined, based on the average value of the products so covered.

The amount shall be increased by 5 % in the case of contracts concluded by recognized producer organizations or groups, or associations thereof.

The aid shall be paid to the producers, producer groups or associations.

2. Aid amounting to ECU 6,04 per kilogram shall be paid out for the production of green vanilla falling within CN code ex 0905 and used to produce dried (black) vanilla or vanilla extracts.

The aid shall be paid out up to an annual maximum quantity of 75 tonnes.

3. Aid amounting to ECU 44,68 per kilogram shall be paid out for the production of essential geranium and vetiver oils, falling within CN codes 3301 21 to 3301 90 90.

The aid shall be paid up to an annual maximum of 30 tonnes in the case of geranium oil and 5 tonnes in the case of vetiver oil.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 33 of Regulation (EEC) No 1035/72. The same procedure shall be used to fix the product categories and the amounts of aid referred to in paragraph 1, and the maximum quantities referred to in paragraph 3.

(*) OJ No L 118, 20. 5. 1972, p. 1. Regulation as last amended by Regulation (EC) No 2753/94 (OJ No L 292, 12. 11. 1994, p. 3).'

10. Article 14 shall be replaced by the following:

'Article 14

1. Aid shall be granted for the production of processed fruits and vegetables obtained from products harvested in the FOD.

The production aid shall be paid to processors who have paid producers for their raw materials a price not less than the minimum price under contracts between producers or recognized producer groups or associations thereof and processors or their legally constituted organizations or associations. The Member State shall fix the minimum price for the raw materials on the basis of the production costs involved.

2. The amount of aid shall be fixed on a flat-rate basis for each of the product categories to be determined, by reference to the prices of the local raw materials used and the import prices for the same raw materials.

3. The aid shall be paid out within the limits of maximum annual quantities established for each product category.

4. The list of processed products for which aid is granted and detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 22 of Regulation (EEC) No 426/86 (*). The same procedure shall be used to fix the product categories and the amounts of aid referred to in paragraph 2, and the maximum quantities referred to in paragraph 3.

(*) OJ No L 49, 27. 2. 1986, p. 1. Regulation as last amended by Regulation (EC) No 1490/94 (OJ No L 161, 29. 6. 1994, p. 13).'

11. The following paragraph shall be added to Article 15:

'5. The aid provided for in this Article shall also be paid, on the terms laid down in paragraphs 1 to 4, in respect of:

— products processed from fruit or vegetables harvested in the FOD,

— essential geranium and vetiver oils falling within CN codes 3301 21 to 3301 90 90,

— dried (black) vanilla falling within CN code ex 0905 and vanilla extracts falling within CN code 3301 90 90,

for which annual disposal and marketing contracts have been concluded.

However, in respect of melons falling within CN code ex 0807 10 90, aid may be granted in a department for a quantity exceeding 3 000 tonnes provided that the total volume eligible for aid for all the FOD is not exceeded.'

12. Article 18 shall be replaced by the following:

'Article 18

1. Aid shall be granted for the direct processing of sugar cane produced in the FOD into sugar syrup or agricultural rum as defined in Article 1 (4) (a) (2) of Regulation (EEC) No 1576/89 (*).

The aid shall be paid to the manufacturer of sugar syrup or to the distiller on condition that he pays the sugar cane producer a minimum price, to be determined.

2. The aid shall be paid:

— in the case of sugar syrup, up to the limit of an annual maximum quantity of 250 tonnes,

— in the case of agricultural rum, up to the limit of an overall quantity corresponding to the average quantity of agricultural rum sold during the three marketing years 1987/1988, 1988/1989 and 1989/1990.

(*) OJ No L 160, 12. 6. 1989, p. 1. Regulation as last amended by Regulation (EEC) No 3280/92 (OJ No L 327, 13. 11. 1992, p. 3).'

13. The following Article shall be added:

'Article 22a

The technical adjustments to this Regulation to take account of the amendments to the rules adopted by the Council shall be effected in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 or in the corresponding Articles of the other Regulations on the common organization of the markets in the sectors concerned or in Article 29 of Regulation (EEC) No 4253/88, whichever is appropriate.'

14. The Annex appearing in the Annex to this Regulation shall be added.

Article 2

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

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

Done at Luxembourg, 30 October 1995.

For the Council
The President
J. SOLANA

ANNEX

'ANNEX

Products covered by the supply arrangements referred to in Article 2 and 3

Cereals and cereal products intended for human consumption and animal feed.

Hops.

Seed potatoes.

Vegetable oils for use in the processing industry.

Fruit pulps, purées and concentrated juices for processing, other than those qualifying for the aid provided for in Article 14.'
