COMMISSION REGULATION (EC) No 671/95

of 29 March 1995

on the assignment of specific reference quantities to certain producers of milk and milk products in Austria and Finland

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3950/92 of 28 December 1992 establishing an additional levy in the milk and milk products sector (1), as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular the seventh subparagraph of Article 3 (2) thereof,

Whereas Article 3 (2) of Regulation (EEC) No 3950/92, specifies that the overall Austrian and Finnish quantities may be increased by maximum amounts of 180 000 and 200 000 tonnes respectively, to be used for allocation of reference quantities to producers whose right to resume production is affected as a result of accession;

Whereas in both new Member States certain farmers either took part for a given period in a programme of conversion from or of non-marketing of milk or milk products or were permitted to produce without a reference quantity owing to the geographical location of their holdings; whereas these farmers should be permitted under Community rules to resume or continue milk production;

Whereas certain Community producers in similar situations were assigned reference quantities subject to compliance with certain terms; whereas such compliance should also be required of the farmers concerned in the new Member States;

Whereas the Management Committee for Milk and Milk Products has not issued an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. A producer whose holding is located in the geographical territory of Austria or Finland who:

(a) either has taken part for a given period expiring on 31 December 1994 or a later date in a non-marketing programme for milk and milk products;

(b) or has ceased, wholly or in part, his deliveries or direct sales but under national legislation predating 1 January 1995 has retained the right to resume them within set time limits up to the maximum volume previously available to him;

(c) or who was subject to national rules in connection with the geographical characteristics of his production location but does not hold a full reference quantity under national legislation in force before 1 January 1995 and is a producer within the meaning of point c of Article 9 of Regulation (EEC) No 3950/92;

shall, on request, receive provisionally, either within the limits of the reference quantity he held before total or partial interruption of production or on the basis of either the quantities marketed in the 12 months preceding his application or the average of the last three 12-month periods, a specific reference quantity for deliveries and/or direct sales, provided that:

— he shows that he has complied with the non-marketing or conversion commitment or with the specific production rules applicable to him under national law,

— he has not transferred the whole of his holding by the date of his application, and

— he shows in support of his application, with regard to the criteria to be set by national legislation, that he is in a position to produce on his holding the specific reference quantity applied for.

2. Should part of the holding be sold or leased out before the date of the application the quantity allocated shall be reduced pro rata to the area sold or leased.

3. The quantities assigned to producers who satisfy the conditions laid down in points a and b of paragraph 1 shall be reduced by a percentage corresponding to that applied to producers in activity, without prejudice to respect for the overall quantity set in the fifth and sixth subparagraphs of Article 3 (2) of Regulation (EEC) No 3950/92.

4. The quantities allocated to producers who satisfy the conditions laid down in point c of paragraph 1 may not exceed 60 000 tonnes in total.

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

Article 2

The application referred to in Article 1 (1) shall be made by the producer to the competent authority designated by the Member State, in line with arrangements made by the Member State :

— before 1 May preceding the date on which the period of total or partial interruption of production ends, or before 1 May 1995 if the period ends in 1995,

— in the case of applications lodged by producers who satisfy the conditions laid down in point c of Article 1 (1), before 1 May 1995.

Article 3

1. The competent authority shall acknowledge receipt of the application and check that the conditions laid down in Article 1 (1) are satisfied.

2. The criteria to be used for determining the applicant's ability to produce on his holding the specific reference quantity applied for shall include :

— the number and breed of the female bovine animals aged at least six months and suitable for the production of milk for marketing that he has on the holding,

— the useful agricultural area used,

— the investment made to increase milk production on the holding,

— the possibility of feeding the herd during part of the year from pasture land off the holding.

3. The competent authority shall notify the applicant before 1 August of the specific reference quantity provisionally allocated to him.

4. If within two years of provisional allocation of the specific reference quantity the producer can show to the satisfaction of the competent authority that he has been making direct sales and/or deliveries for at least 12 months and that these direct sales and or deliveries have, during the last twelve months, reached a level of at least 80 % of the provisional specific reference quantity, that quantity shall be definitively allocated to him. Otherwise the reference quantity definitively allocated shall be that actually delivered or sold directly.

Article 4

1. Should part or all of the holding be sold or leased out or the reference quantity be temporarily transferred before its definitive allocation, the reference quantity shall be reduced pro rata to the area sold or leased our or by the amount temporarily transferred.

2. Specific reference quantities provisionally allocated under this Regulation may not be included in any milk production abandonment programme for three years following provisional allocation of that quantity.

Article 5

The provisions of this Regulation shall also apply in the case of holdings and parts of holdings received by inheritance or in some other way similar to inheritance from a farmer as referred to in Article 1 (1).

Article 6

Member States shall notify to the Commission :

— before 1 April 1995, the name of the competent authority and the arrangements adopted for the purposes of Article 1 and the criteria adopted other than those specified in Article 3 (2).

— before 1 October each year, the number of applications and the quantities involved.

Article 7

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 Brussels, 29 March 1995.

For the Commission

Franz FISCHLER

Member of the Commission