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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 55/2004

of 17 December 2003

amending Regulation (EC) No 1453/2001 introducing specific measures for certain agricultural products for the Azores and Madeira and repealing Regulation (EEC) No 1600/92 (Poseima) with respect to the application of the supplementary levy in the milk and milk products sector in the Azores

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 299(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament [1],

Whereas:

(1) Article 23 of Council Regulation (EC) No 1453/2001 [2] introduced for a period of four marketing years beginning in 1999/2000 a derogation from certain provisions of Regulation (EEC) No 3950/92 of 28 December 1992 establishing an additional levy in the milk and milk products sector [3] as regards the Azores. Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers [4] has amended Article 23 of Regulation (EC) No 1453/2001 in order to extend the aforementioned period to six marketing years and has fixed the amounts of that extension.

(2) However, restructuring of the milk sector in the Azores has not yet been achieved. In order to take account of the high level of dependence on milk production in the Azores, combined with other handicaps linked to their outermost location and the absence of viable alternative production, the relevant period should be extended and the amounts of this further extension fixed.

(3) This measure is restricted to milk producers in the Azores. Over the period of its application, this measure should enable the sector in the Azores to continue being restructured without interfering with the milk market and without appreciably affecting the sound working of the levy scheme at the Portuguese or Community level.

HAS ADOPTED THIS REGULATION:

Article 1

Article 23 of Council Regulation (EC) No 1453/2001 shall be replaced by the following:

'Article 23

1. As from marketing year 1999/2000, for the purposes of sharing the additional levy between the producers referred to in the second sentence of Article 2(1) of Regulation (EEC) No 3950/92, only producers as defined in Article 9(c) of that Regulation, established and producing in the Azores, who market quantities exceeding their reference quantity increased by the percentage referred to in the third subparagraph shall be deemed to have contributed to the overrun.

The additional levy shall be due on quantities exceeding the increased reference quantity after reallocation of the unused quantities within the margin resulting from this increase among the producers referred to in the first paragraph and in proportion to the reference quantity available to each producer.

The percentage referred to in the first paragraph shall be equal to the ratio between the quantities respectively of 73 000 tonnes for the period 1999/2000 to 2004/2005 and 23 000 tonnes as from marketing year 2005/2006 and the total of the reference quantities available on each holding on 31 March 2000. It shall apply for each producer only to the reference quantities available to that producer on 31 March 2000.

2. The quantities of milk or milk equivalent marketed which exceed the reference quantities but which comply with the percentage referred to in paragraph 1 of this Article, after the reallocation referred to in that same paragraph, shall not be taken into account in establishing any overrun in Portugal as calculated in accordance with the first sentence of Article 2(1) of Regulation (EEC) No 3950/92.'

[1] Opinion delivered on 16 December 2003 (not yet published in the Official Journal).
[2] OJ L 198, 21.7.2001, p. 26. Regulation as last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).
[3] OJ L 405, 31.12.1992, p. 1. Regulation repealed by Regulation (EC) No 1788/2003 (OJ L 270, 21.10.2003, p. 123).
[4] OJ L 270, 21.10.2003, p. 1.

Article 2

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

This Regulation shall apply as from 1 April 2003.

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

Done at Brussels, 17 December 2003.

For the Council

The President

G. ALEMANNO