

COUNCIL DECISION

of 16 July 2003

on the compatibility with the common market of an aid that the Italian Republic intends to grant to its milk producers

(2003/530/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third subparagraph of Article 88(2) thereof,

Having regard to the application of the Italian Republic,

Whereas:

- (1) Articles 87, 88 and 89 of the Treaty have been declared applicable to the milk market by the common market organisation in milk and milk products as established by Regulation (EC) No 1255/1999 ⁽¹⁾.
- (2) Italian milk producers have produced milk in excess of their reference quantities during the period from 1995/1996 to 2001/2002 and are due to pay to the Community an amount of EUR 1 386 475 250 by virtue of the additional levy on milk and milk products established in accordance with Regulation (EEC) No 3950/92 ⁽²⁾.
- (3) This amount has to a large extent not been recovered by the Italian authorities following suspensions of payment obtained by these producers from national Administrative Courts.
- (4) The current situation in Italy is characterised by the fact that the collection of the additional levy is running into a series of difficulties, which have notably resulted in a vast number of pending court cases which may continue to retard actual payments for a considerable time in the future.
- (5) The Italian authorities envisage measures to settle this pending litigation and to remove the social tensions that currently exist by allowing these milk producers to settle their outstanding debt by means of deferred payment without interest over a number of years.
- (6) The Italian authorities intend to this effect to grant State aid to these producers whereby the Italian Republic would itself make payment to the Community of the total amount due from these producers to the Community and would recover this amount in full from the producers by way of deferred payment.
- (7) The Italian government undertakes to avoid similar problems in the future by imposing the rigorous application of the additional levy on the basis of a new law for

the future management of milk quotas, providing a radical overhaul and modernisation of its implementation provisions. According to the Commission's assessment, this law provides the correct legislative basis for application of the regime and, once fully and correctly implemented, the regime is expected to function well.

- (8) In order to avoid the imposition of heavy financial burdens on the individual Italian milk producers concerned, which would probably be caused by the immediate recovery in full of all the amounts due, and thus to alleviate the existing social tensions, exceptional circumstances exist which justify considering the aid which the Italian Republic intends to grant to these milk producers in the form of an advance and a deferred payment to be compatible with the common market in derogation from Article 87 of the Treaty, if the conditions laid down in this Decision are fulfilled.
- (9) Under Article 88(1) of the Treaty the Commission keeps under constant review all aid schemes authorised by the Council. In accordance with the procedures set out by Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽³⁾, the Commission monitors compliance with the conditions under which an aid scheme is approved and can order the recovery of unlawful aid,

HAS ADOPTED THIS DECISION:

Article 1

The aid the Italian Republic intends to grant to milk producers, by itself making payment to the Community of the amount due from them to the Community by virtue of the additional levy on milk and milk products for the period 1995/1996 to 2001/2002 and by allowing these producers to repay their debt by way of deferred payment over a number of years without interest, is exceptionally considered to be compatible with the common market on condition that:

- repayment shall be in full by yearly instalments of equal size,
- the repayment period shall not exceed 14 years, starting from 1 January 2004.

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽²⁾ OJ L 405, 31.12.1992, p. 1. Regulation as last amended by Commission Regulation (EC) No 572/2003 (OJ L 82, 29.3.2003, p. 20).

⁽³⁾ OJ L 83, 27.3.1999, p. 1.

Article 2

The grant of the aid set out in Article 1 shall be conditional on Italy declaring the amount of EUR 1 386 475 250, corresponding to the total additional levy for the periods referred to in Article 1, to the European Agricultural Guarantee and Guidance Fund (EAGGF).

Italy shall deduct the outstanding debt, which corresponds to the total additional levy reduced by the levy already declared for the time-period up to and including March 2003 and credited to the EAGGF, the levy already withheld on the basis of reductions of monthly advances as well as the levy already withheld on the basis of the decision relating to the clearance of accounts for 1995/1996 and 1996/1997, and interest thereon corresponding to a total amount of EUR 249 585 217, in three yearly instalments of equal size, from the expenditure financed by the EAGGF for November 2003, November 2004 and November 2005 respectively.

Interest, calculated on a monthly basis, is reduced by the interest already charged on the basis of the decisions relating to the clearance of accounts for 1995/1996 and 1996/1997.

Declarations of the additional levy for April 2003 and onwards, for the periods referred to in Article 1, and credited to the EAGGF shall be taken into consideration.

Article 3

In order to allow the Commission to perform its tasks under Article 88(1) of the Treaty, the competent Italian authorities shall report annually to the Council and the Commission on the progress made by them in recovering the amount due from the producers by virtue of the additional levy for the period 1995/1996 to 2001/2002. The Commission will assess this information and report its assessment to the Council.

Article 4

This Decision is addressed to the Italian Republic.

Done at Brussels, 16 July 2003.

For the Council

The President

G. MAGRI