COUNCIL REGULATION (EEC) No 857/84

of 31 March 1984

adopting general rules for the application of the levy referred to in Article 5c of Regulation (EEC) No 804/68 in the milk and milk products sector

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products (1), as last amended by Regulation (EEC) No 856/84 (2), and in particular Article 5c thereof,

Having regard to the proposal from the Commission,

Whereas Article 5c of Regulation (EEC) No 804/68 instituted a levy payable by every producer or purchaser of milk or other milk products on quantities exceeding an annual reference quantity; whereas the amount of this levy should normally cover the cost of disposal of the milk exceeding the reference quantity; whereas, however, when the levy is charged to the purchaser, its application does not necessarily cover all the quantities of milk delivered by each producer and exceeding a quantity corresponding to that adopted in order to establish the purchaser's reference quantity; whereas, in order to obtain equivalence of results, a higher levy should be fixed when it is payable by the purchaser;

Whereas the reference quantity should be fixed on the basis of the quantity which corresponds to the 1981 calendar year already adopted for the determination of the guarantee threshold referred to in Article 5b of Regulation (EEC) No 804/68, plus 1 %; whereas, however, for reasons to do with their production or collecting conditions, Member States should be enabled to adopt as a basis the quantity corresponding to the 1982 calendar year or to the 1983 calendar year, weighted by a percentage enabling the same results to be achieved.

Whereas the Member States should be enabled to adapt the reference quantities to take into account the special situations of certain producers and to establish for this purpose, as necessary, a reserve within the abovementioned guaranteed quantity;

Whereas, with a view to making it easier to apply the arrangements for the supplementary levy in Greece, bearing in mind the fact that its total milk production represents less than 1 % of Community production and that the total number of purchasers in Greece is very high, all the purchasers in this Member State should be considered as one single purchaser;

Whereas, with regard to producers' direct sales to consumption, account should be taken of the tendency for such sales to decline and the quantity corresponding to the 1981 calendar year, increased by 1 %, should be taken as reference quantity;

Whereas the scheme must, as a matter of overwhelming public interest, enter into force on 2 April 1984; whereas, to this end, transitional measures must be adopted so that the levy due from 2 April onwards can be collected reasonably promptly,

HAS ADOPTED THIS REGULATION:

Article 1

1. The levy referred to in Article 5c of Regulation (EEC) No 804/68 is hereby fixed at:

— 75 % of the target price for milk, where formula A is applied,

— 100 % of the target price for milk, where formula B is applied,

— 75 % of the target price for milk, where there is direct sale to consumption.

2. 'Region' within the meaning of Article 5c (1) of Regulation (EEC) No 804/68 is defined as meaning all or part of the territory of a Member State having geographical unity and in which the natural conditions, the structures of production and the average yields of the herds are comparable.

The implementation in this region of formula A or B shall comply with one or more of the following criteria:

— administrative viability,

— the need to facilitate structural change and adaptation,

— regional development requirements, one consideration being the need to avoid desertification of certain areas.

The Member States shall send annually to the Commission before 1 January, but for the first time before 1 May 1984, a list of regions with indication of the formula chosen for each of these.

(1) OJ No L 148, 28. 6. 1968, p. 13.

(2) See page 10 of this Official Journal.

Article 2

1. The reference quantity referred to in Article 5c (1) of the abovementioned Regulation shall be equal to the quantity of milk or milk equivalent delivered by the producer during the 1981 calendar year (formula A), or to the quantity of milk or milk equivalent purchased by a purchaser during the 1981 calendar year (formula B), plus 1 %.

2. However, Member States may provide that on their territory the reference quantity referred to in paragraph 1 shall be equal to the quantity of milk or milk equivalent delivered or purchased during the 1982 calendar year or the 1983 calendar year, weighted by a percentage established so as not to exceed the guaranteed quantity defined in Article 5c of Regulation (EEC) No 804/68. This percentage may be varied on the basis of the level of deliveries of certain categories of persons liable for the levy, of the trend in deliveries in certain regions between 1981 and 1983 or of the trend in deliveries of certain categories of persons liable during this same period, under conditions to be determined according to procedures provided for in Article 30 of Regulation (EEC) No 804/68.

3. The percentages referred to in paragraphs 1 and 2 can be adapted by the Member States to ensure the application of Articles 3 and 4.

Article 3

For the determination of the reference quantities referred to in Article 2 and in connection with the application of formulas A and B, certain special situations shall be taken into account as follows:

1. Producers who have adopted milk production development plans under Directive 72/159/EEC [1] lodged before 1 March 1984 may obtain, according to the Member State's decision:
   — if the plan is still being implemented, a special reference quantity taking account of the milk and milk product quantities provided for in the development plan,
   — if the plan has been implemented after 1 January 1981, a special reference quantity taking into account the milk and milk product quantities which they delivered in the year during which the plan was completed.

   Investments carried out without a development plan can also be taken into account if the Member State has sufficient information.

2. Member States may grant a specific reference quantity to young farmers setting up after 31 December 1980.

3. Producers whose milk production during the reference year referred to under Article 2 has been affected by exceptional events occurring before or during that year shall obtain, on request, reference to another calendar reference year within the 1981 to 1983 period.

   The following situations may justify application of the first subparagraph:
   — a serious natural disaster affecting the producer's farm to a substantial extent,
   — the accidental destruction of the producer's fodder resources or buildings used for dairy livestock,
   — an epizootic affecting all or part of the milk herd.

   Member States shall inform the Commission of cases of application of the first subparagraph. Additions to the list of situations referred to in the second subparagraph may be made according to the procedure laid down in Article 30 of Regulation (EEC) No 804/68.

Article 4

1. In order to complete the restructuring of milk production at national or regional level or at the level of the collecting areas, the Member States may, in connection with the application of formulas A and B:

(a) grant to producers undertaking to discontinue milk production definitively compensation paid in one or more annual payments;

(b) grant an additional reference quantity to producers realizing a milk production development plan approved after the entry into force of this Regulation under Directive 72/159/EEC, on condition that this plan meets the criteria referred to in Article 1 (2) of Regulation (EEC) No 1946/81 [2];

(c) grant producers undertaking farming as their main occupation an additional reference quantity, whether their herd fulfils the conditions set out in paragraph (b) or not.

2. The reference quantities freed shall, as necessary, be added to the reserve referred to in Article 5.

[1] OJ No L 96, 23. 4. 1972, p. 1.

[2] OJ No L 197, 20. 7. 1981, p. 32.

Article 5

For the purpose of applying Articles 3 and 4, additional reference quantities may be granted only within the guaranteed quantity limit referred to in Article 5c of Regulation (EEC) No 804/68. These additional quantities shall be drawn from a reserve constituted by the Member State within the abovementioned guaranteed quantity.

Article 6

1. Each producer of milk and milk products referred to in Article 5c (2) of Regulation (EEC) No 804/68 shall be assigned a reference quantity corresponding to the direct sales made by the producer during the 1981 calendar year, increased by 1 %.

2. The total of the reference quantities granted under paragraph 1 may not exceed the quantities fixed in the Annex to this Regulation.

3. The provisions of Articles 3, 4 and 7 shall apply to the producer referred to in this Article, under rules to be determined following the procedure provided for in Article 30 of Regulation 804/68.

Article 7

1. Where an undertaking is sold, leased or transferred by inheritance, all or part of the corresponding reference quantity shall be transferred to the purchaser, tenant or heir according to procedures to be determined.

2. Under formula B, where a purchaser replaces, wholly or in part, one or more purchasers, his annual reference quantity shall be established:

— for the end of the current 12-month period, by taking into account all or part of the reference quantities on a pro rata basis of the time still to run;

— for the following period of 12 months, by adopting all or part of the reference quantities of the purchaser or purchasers whom he replaces.

3. Member States may provide that a part of the quantities be added to the reserve referred to in Article 5.

Article 8

Except as provided for in Article 7 (1):

1. where formula B is applied, Member States may take the necessary steps making it possible for the purchasers of milk an milk products to manage the reference quantities allocated to them including the allocation and re-allocation of the quantities mentioned in Article 10;

2. the arrangements may include the setting up of inter-professional bodies to consider cases of dispute.

Article 9

1. Where formulas A and B are applied, the levy shall be collected:

(a) by means of quarterly payments on account calculated on the basis of the quantities of milk or milk equivalent which, for each person liable, exceed, for the relevant quarter, the cumulative reference quantity calculated at the end of the corresponding quarter of the reference calendar year chosen by the Member State;

(b) by a final account for each person liable, calculated after the end of the 12-month period concerned, on the basis of the actual excess during this same period beyond his annual reference quantity.

2. Where formula A is applied, the levy shall be collected from each producer by the purchaser.

3. Producers of milk and/or milk products selling directly to consumption shall pay the levy to the agency appointed by the Member State, according to procedures to be determined.

Article 10

Where formula B is applied:

1. A purchaser liable for the levy shall recover it through the price paid to the producers for the quarter concerned by reference to the cumulated quantity of milk or milk equivalent which each of them has, for the same quarter, delivered in excess of a quarterly quantity corresponding to that taken for the purposes of establishing the purchasers' reference quantity.

2. After the end of the 12-month period concerned, the purchaser shall, where appropriate, on the basis of the final account referred to in Article 9 (1) (b), make the necessary adjustments on the basis of the milk or milk equivalent quantity by which each of the producers has, for the relevant period, exceeded an annual quantity corresponding to that taken for the purposes of establishing the purchaser's reference quantity.

   For the application of this Article, in Greece all purchasers taken as a whole shall be considered as one purchaser.

Article 11

For the purposes of application of Articles 9 and 10, the Commission shall:

(a) determine the amount of the levy, in accordance with Article 1;

(b) establish, according to the procedure laid down in Article 30 of Regulation (EEC) No 804/68, the equivalences to be used for the implementation of this Regulation, and in particular, for the calculation of the levy applicable to milk products other than milk.

(c) determine, according to the procedure provided for in Article 50 of Regulation (EEC) No 804/68, the characteristics of the milk and, in particular, the fat content thereof, considered to be representative in order to establish the quantities of milk delivered or purchased.

Article 12

For the purposes of this Regulation the following meanings shall apply:

(a) milk: the product of the milking of one or more cows;

(b) other milk products: cream, butter and cheese;

(c) producer: a natural or legal person or group of natural or legal persons farming a holding located within the geographical territory of the Community:

— selling milk or other milk products directly to the consumer, and/or

— supplying the purchaser;

(d) holding: all the production units operated by the producer and located within the geographical territory of the Community;

(e) purchaser: an undertaking or grouping which purchases milk or other milk products:

— to treat or process them, or

— to sell them to one or more undertakings treating or processing milk or other milk products;

(f) undertaking treating or processing milk or other milk products: an undertaking or grouping, the dairies activities of which are restricted to collection, packaging, storage and chilling or to one of these operations;

(g) delivery: any delivery of milk or other milk products where the transport operation is carried out by a producer, a purchaser, an undertaking processing or treating these products or a third party;

(h) milk or milk equivalent sold directly to consumption: milk or milk products processed into milk equivalent, sold without going through an undertaking treating or processing milk.

Article 13

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

However, for the purposes of applying Articles 9 and 10, transitional provisions shall be adopted in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68.

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

Done at Brussels, 31 March 1984.

For the Council

The President

M. ROCARD

ANNEX

Quantities referred to in Article 6 (2)

(milk producers selling direct to the consumer)

('000 tonnes)

Belgium	505
Denmark	1
Germany	305
Greece	116
France	1 183
Ireland	16
Italy	1 591
Luxembourg	1
Netherlands	145
United Kingdom	187