

COUNCIL REGULATION (EEC) No 1637/91

of 13 June 1991

fixing compensation with regard to the reduction of the reference quantities referred to in Article 5c of Regulation (EEC) No 804/68 and compensation for the definitive discontinuation of milk production

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 1630/91 ⁽²⁾, and in particular Article 5c (6) thereof,

Having regard to the proposal from the Commission,

Whereas developments in the milk market have made necessary a 2 % reduction in the guaranteed global quantities referred to in Article 5c of Regulation (EEC) No 804/68 and the Annex to Regulation (EEC) No 857/84 ⁽³⁾ adopting general rules for the application of the additional levy system in the milk and milk products sector, as last amended by Regulation (EEC) No 1635/91 ⁽⁴⁾; whereas the said reduction was decided with effect from the eighth 12-month period;

Whereas, furthermore, Regulation (EEC) No 857/84, as amended by Regulation (EEC) No 1635/91, implies the short term granting of new reference quantities to producers who have entered into a non-marketing or conversion undertaking and, for that purpose, the increase of national reserves; whereas, taking into account the market situation, the reference quantities of the other producers in the other Member States concerned should, for the time being, be subject to a deduction to be added to the 2 % reduction of guaranteed global quantities;

Whereas it therefore appears necessary to provide for a compensation of ECU 10 per 100 kilograms proportionate to the adjustment effort required of producers during the eighth 12-month period; whereas, however, the maximum compensation is limited to 3 % of the available reference quantity, without prejudice to the possibility for the Member States to contribute to the financing by paying the same compensation for a reduction greater than 3 %;

Whereas, however, in order to facilitate the decrease of deliveries and direct sales involved in reducing guaranteed global quantities and also the mobilization of the necessary quantities for producers who have entered into a non-marketing or conversion undertaking or for producers whose situation, in the view of the Member States, continues to give rise to concern, a Community system should be

established to finance the discontinuation of milk production by granting any producer, at the latter's request and provided that he fulfils certain eligibility requirements, compensation, to be paid after the definitive discontinuation of all milk production; whereas the Member States must take account of the existence of agricultural leases;

Whereas Member States should also be permitted to decide whether or in which region to implement this programme, for reasons relating to the necessity to encourage structural trends and changes, or to the requirements of regional development, or to the possibility under market conditions in the region or regions concerned to free significant reference quantities or to overriding administrative needs;

Whereas, in the light of experience, the compensation for discontinuing milk production may be fixed at ECU 10 per 100 kilograms and per year, payable for five years, provided that the additional levy programme is extended for such period;

Whereas the reduction target set by the Member State may be achieved by means of lower compensation;

Whereas, on the other hand, it may be necessary to increase the level of compensation in order to achieve that target; whereas, therefore, Member States should be authorized to put up additional financing, the amount of which may be adjusted to take account of specific regional features;

Whereas in order to ensure that in certain Member States the programme for the discontinuation of milk production is carried out more efficiently and that Community funds are used as cost effectively as possible, it is appropriate to authorize national pre-financing of discontinuation premiums;

Whereas the compensation for discontinuing milk production is, in principle, granted for the whole of the reference quantity; whereas, however, this right should in certain cases be limited since producers who have benefited from Article 3c of Regulation (EEC) No 857/84 are excluded from the compensation;

Whereas the reference quantities thus freed bolster the national reserves to be re-allocated to producers whose reference quantity for the eighth 12-month period has been reduced and to the producers referred to in Article 3 (a) of Regulation (EEC) No 857/84, and, where appropriate, after the Commission has agreed, to priority producers as defined by the Member State in order to resolve specific persistent problems;

Whereas the rate of Community financing of compensation for discontinuation of milk production fixed in the Annex is limited to 3 % of the guaranteed global quantities, deliveries

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ See page 19 of this Official Journal.

⁽³⁾ OJ No L 90, 1. 4. 1984, p. 13.

⁽⁴⁾ See page 28 of this Official Journal.

and direct sales; whereas, if it appeared that the amounts in the Annex could not be totally used up for compensating the discontinuation of milk production, provision should be made, subject to the additional levy scheme being extended, that the amounts that are annually available should be allocated to producers to the extent that their disposable reference quantity has been reduced;

Whereas the aim of the Community compensation is to restore market balance and may, therefore, be considered as an intervention within the meaning of Article 3 of Council Regulation (EEC) No 792/70 of 21 April 1970 on the financing of the common agricultural policy ⁽¹⁾, as last modified by Regulation (EEC) No 2048/88 ⁽²⁾,

HAS ADOPTED THIS REGULATION:

Article 1

For the eighth 12-month period of application of the additional levy scheme referred to in Article 5c of Regulation (EEC) No 804/68, compensation shall be granted to producers whose reference quantity has been reduced pursuant to Article 2 (3) and/or Article 6 (3) and (4) of Regulation (EEC) No 857/84.

This compensation shall be fixed at ECU 10 per 100 kilograms and shall be paid for such part of the individual reference quantity for the eighth period as has been actually reduced, but it may not exceed a maximum corresponding to 3 % of the reference quantity available before the entry into force of this Regulation. However, Member States may contribute to the financing by paying compensation for the part which exceeds 3 % of the reference quantity.

The compensation shall be paid during the last quarter of the 1992 calendar year. However, an earlier date may be set by a Commission decision. Moreover, the Member States may pay the compensation as from the entry into force of this Regulation if they ensure the pre-financing.

Article 2

1. At the request of the party concerned and subject to the conditions defined in this Regulation, the Member States shall grant to any producer, as defined in the first subparagraph of Article 12 (c) of Regulation (EEC) No 857/84, or to any associated producer, where the second subparagraph of Article 12 (c) of the aforesaid Regulation is applicable, who undertakes to discontinue definitively all milk production before a date to be determined, compensation payable in five annual instalments during the last quarter of each of the following calendar years 1992, 1993, 1994, 1995 and 1996, without prejudice to the possibility for the Member States to pay the compensation on earlier dates and/or in a single payment if they ensure the pre-financing.

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽²⁾ OJ No L 185, 15. 7. 1988, p. 1.

Each Member State may, on the basis of one or several of the following criteria:

- the need to encourage structural trends and changes,
- the requirements of regional development in order to avoid, in particular, the desertification of certain areas,
- the possibility, under market conditions in the region or regions concerned, that such a scheme will free significant reference quantities,
- overriding administrative needs,

decide not to implement the scheme referred to in the preceding subparagraph in one, several or all regions, as defined in the first subparagraph of Article 1 (2) of Regulation (EEC) No 857/84. In such cases, paragraph 5 of this Article shall apply.

2. (a) Eligible producers are those who have obtained a reference quantity by virtue of Article 5c of Regulation (EEC) No 804/68, in the context of either formulas A or B and/or in the context of direct sales, excluding producers who have benefited from quantities pursuant to Article 3c of Regulation (EEC) No 857/84.

However, Member States:

- may decide not to grant compensation to producers possessing less than six dairy cows or whose real individual available reference quantity is less than 25 000 kilograms,
- shall be authorized to make the necessary provisions to ensure that the reductions in quantities effected under this Regulation are, in so far as possible, harmoniously apportioned between the regions and collecting areas.

- (b) Compensation shall be granted for the reference quantity available before the entry into force of this Regulation, with the exception of:

- quantities suspended pursuant to Regulation (EEC) No 775/87 ⁽³⁾, as last amended by Regulation (EEC) No 3643/90 ⁽⁴⁾,
- quantities received pursuant to Article 3 (1) and (2), Article 3a and (6) and Article 4 (1) (b) and (c) of Regulation (EEC) No 857/84, and
- quantities transferred during the eighth period,

- (c) The compensation shall be reduced by the overall amounts paid out pursuant to Article 1,

- (d) In the case of agricultural leases, the request to obtain the compensation shall be submitted by the lessee.

⁽³⁾ OJ No L 78, 20. 3. 1987, p. 5.

⁽⁴⁾ OJ No L 362, 27. 12. 1990, p. 9.

Member States shall determine the conditions under which the lessee may submit the request to obtain the compensation and the conditions under which the compensation shall be granted.

3. Subject to the additional levy scheme being extended, Community financing of the compensation referred to in paragraph 1 shall be limited to the amounts set out in the Annex.

Within that limit, Member States shall be authorized to pay maximum compensation of ECU 10 per 100 kilograms and per year.

Member States may:

- (a) pay compensation of less than ECU 10 per 100 kilograms and per year and use the balance to free additional quantities;
- (b) contribute to Community financing by increasing the amount of compensation.

The level of the increase may be adjusted by each Member State within its territory to take account of the differing local conditions in respect of:

- milk production developments,
- the average level of deliveries per producer,
- the need to avoid hampering the restructuring of milk production,
- the existence of opportunities for converting to other productive activities,
- the siting of milk production in one of the zones as defined in Article 3 (3), (4) and (5) of Council Directive 75/268/EEC of 28 April 1975 on mountain- and hill-farming and farming in certain less-favoured areas ⁽¹⁾, as last amended by Regulation (EEC) No 797/85 ⁽²⁾.

In the case of producers who have two reference quantities by virtue of deliveries and direct sales, the compensation shall be granted for both reference quantities.

4. Subject to the additional levy scheme being extended, the reference quantities freed pursuant to this Article shall be added to the reserve referred to in Article 5 or in Article 6 (3) of Regulation (EEC) No 857/84 to be:

- (a) re-allocated to the producers referred to in Article 1 of this Regulation;

- (b) awarded to the producers referred to in Article 3a of Regulation (EEC) No 857/84;
- (c) with regard to any remainder, awarded to priority producers determined in accordance with objective criteria by the Member State with the agreement of the Commission, in particular to small producers and producers situated in areas such as those defined in Article 3 (3), (4) and (5) of Directive 75/268/EEC.

5. Subject to the additional levy scheme being extended, in cases where the amounts set out in the Annex are not entirely used up under the scheme referred to in paragraph 1, the Member States concerned shall use the amounts remaining available for payment of compensation to the producers referred to in Article 1. This compensation, which may not exceed ECU 10 per 100 kilograms and per year, shall be paid for the portion by which the amount of individual reference quantity has been reduced in relation to the reference quantity available for the seventh period or, with regard to Portugal and the territory of the former German Democratic Republic, to the reference quantity available before the entry into force of this Regulation. Compensation shall be paid not later than during the last quarter of each of the following calendar years 1993, 1994, 1995 and 1996.

Article 3

The financing of Community compensation provided for in Articles 1 and 2 shall be considered as an intervention within the meaning of Article 3 of Regulation (EEC) No 729/70.

Article 4

Member States shall forward to the Commission, before 1 April 1992, all the information needed for an assessment to be made of the effectiveness of the measures provided for in this Regulation.

Article 5

The Commission shall, in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68, adopt the measures for applying this Regulation.

Article 6

This Regulation shall enter into force on the day of 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, 13 June 1991.

For the Council
The President
A. BODRY

⁽¹⁾ OJ No L 128, 19. 5. 1975, p. 1.

⁽²⁾ OJ No L 94, 30. 3. 1985, p. 1.

ANNEX

Annual amounts (1992 to 1996) in millions of ecus referred to in Article 2 (3)

	<i>Deliveries</i>	<i>Direct Sales</i>
Belgium	9,269	1,142
Denmark	14,060	0,003
Germany	87,357	0,459
Greece	1,667	0,014
Spain	13,992	1,582
France	74,126	2,243
Ireland	15,206	0,047
Italy	26,388	2,198
Luxembourg	0,763	0,003
Netherlands	34,500	0,276
Portugal	5,337	0,363
United Kingdom	44,149	1,151
