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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1265/95

of 29 May 1995

amending Regulation (EEC) No 3013/89 on the common organization of the market in sheepmeat and goatmeat

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas by Regulation (EEC) No 2069/92 ⁽⁴⁾ amending Regulation (EEC) No 3013/89 ⁽⁵⁾, the Council imposed, with effect from the 1993 marketing year, an individual limit per producer in respect of the grant of the ewe and goat premiums;

Whereas the grant of an individual limit per producer for obtaining the right to the premium has given rise to administrative difficulties in the case of certain groups of producers, in particular family groups, during the transfer of premium rights between members of the said groups; whereas, therefore, for reasons of correct administration, provision should be made for certain groups to be exempted, under certain conditions, from payment to the national reserve of the percentage of rights provided for in the case of a transfer of rights without transfer of holding; whereas that provision must not lead to an increase in individual rights currently allocated in each Member State, nor give rise to the formation of new producer groups created with the sole aim of avoiding payment to the national reserve of the percentage of rights provided for in the case of a transfer of rights without transfer of holding;

Whereas the individual limit was established on the basis of the total amount of premiums granted for the 1991 marketing year for each producer; whereas in Italy and in Greece, because that marketing year was a year of transition between two different premium systems, a number of producers were not able to submit an application for a

premium for the 1991 marketing year for the number of eligible animals they held; whereas, in order to remedy this situation, special reserves should be created for Italy and for Greece corresponding to the estimated maximum number of rights which the producers concerned were unable to claim; whereas the competent authorities of those two Member States should initially be allowed to grant new rights up to the limit of the special reserve referred to above and then, subject to verification by the Commission of the correct allocation of the rights granted, in particular in the regions most affected, the national reserves will be increased for Italy and Greece by the sum of the rights newly granted with effect from the 1995 marketing year;

Whereas it is therefore necessary to amend Regulation (EEC) No 3013/89,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3013/89 is hereby amended as follows:

1. In Article 5a (4) (b) the following subparagraph is hereby added:

'However, with effect from the 1995 marketing year the previous paragraph shall not apply to groups of producers, in the case of a transfer of rights between members of the same group of producers, meeting conditions to be determined by the Commission in accordance with the procedure provided for in Article 30.

These conditions should take into account at least:

- the status of the group members,
- the length of time members have belonged to and participated in the group,
- the composition of the group,

⁽¹⁾ OJ No C 382, 31. 12. 1994, p. 38.

⁽²⁾ OJ No C 89, 10. 4. 1995.

⁽³⁾ OJ No C 133, 31. 5. 1995, p. 8.

⁽⁴⁾ OJ No L 215, 30. 7. 1992, p. 59.

⁽⁵⁾ OJ No L 289, 7. 10. 1989, p. 1. Regulation as last amended by Regulation (EC) No 1886/94 (OJ No L 197, 30. 7. 1994, p. 30).

to the extent necessary not to jeopardize the application of Article 5a (4) (b), third subparagraph.';

2. In Article 5b (1), the following subparagraphs are hereby added:

'In addition, for Italy and Greece a special reserve with a ceiling of 600 000 rights for each of those two Member States shall be established to permit the granting of additional rights to producers affected by the fact that the changes in the conditions of eligibility of animals for the premium and the introduction of individual limits on the guarantee per producer based on the number of premiums paid for the marketing year both occurred in 1991.

Italy and Greece shall ensure that the producers referred to above are identified in accordance with the following criteria:

- (a) for Italy:

- producers who, at the start of 1991, had not submitted an application for a premium for the 1991 marketing year but who in the same period submitted an application for a premium for the 1990 marketing year,
- in addition, and in strictly delineated regions defined in accordance with the procedure laid down in Article 30, producers who submitted an application for a premium for the 1991 marketing year and for whom it can be shown that the number of premiums actually granted does not correspond to the number of eligible animals kept for that marketing year; in this case the number of additional rights which may be granted may not exceed 20 % of this number of eligible animals;

- (b) for Greece:

- producers who submitted an application for a premium for the 1991 marketing year and for whom it can be shown in particular on the basis of applications submitted in 1992 that the

premium received for that marketing year does not correspond to the number of eligible animals owing to the fact that they did not submit applications under the rules laid down in Article 22 (6), although they did have eligible ewes under those rules,

- producers who did not submit an application for a premium for the 1991 marketing year and for whom it can be shown that the application was not submitted because for that marketing year those producers did not have any eligible ewes under the rules laid down in Article 22 (6).

In all the cases referred to above, with the exception of the regions referred to in the second indent of (a) in the case of Italy, the additional rights shall be determined by comparison with the number of eligible animals featuring in the applications submitted for the 1992 marketing year by the same producers or their legal successors.

After Italy and Greece have clearly identified the producers concerned in accordance with the criteria laid down in the preceding subparagraph and before the end of the 1995 marketing year, the Commission shall verify that the allocation of the additional rights to be provided is to be limited to the producers concerned and that those producers do not ultimately obtain more rights than would have been granted them if the situation referred to above had not occurred.

Subject to that verification and within the limit of the special reserve referred to above, the national reserve established pursuant to this Article shall be increased by an amount corresponding to the sum of the additional rights to be granted; that increase shall not affect the additional reserve referred to in paragraph 3.'

Article 2

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

It shall apply as from the 1995 marketing year.

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

Done at Brussels, 29 May 1995.

For the Council

The President

Ph. VASSEUR