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COUNCIL REGULATION (EC) No 1256/1999

of 17 May 1999

amending Regulation (EEC) No 3950/92 establishing an additional levy in the milk and milk products sector

(OJ L 160, 26.6.1999, p. 73)

Corrected by:

► **C1** Corrigendum, OJ L 2, 5.1.2000, p. 78 (1256/1999)



COUNCIL REGULATION (EC) No 1256/1999
of 17 May 1999
amending Regulation (EEC) No 3950/92 establishing an additional
levy in the milk and milk products sector

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 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⁾,

Having regard to the opinion of the Committee of the Regions ⁽⁴⁾,

Having regard to the opinion of the Court of Auditors ⁽⁵⁾,

- (1) Whereas, pursuant to Council Regulation (EEC) No 3950/92 of 28 December 1992, establishing an additional levy in the milk and milk products sector ⁽⁶⁾, the additional levy scheme, which had originally been introduced from 2 April 1984 in the said sector, was extended by another seven 12-month periods; whereas the purpose of this scheme was to reduce the imbalance between supply and demand on the milk and milk-products market and the resulting structural surpluses; whereas the scheme remains necessary in the future in order to achieve a better market balance; whereas it should therefore continue to be applied for eight further consecutive 12-month periods starting on 1 April 2000;
- (2) Whereas the level of price support in the dairy sector will be gradually reduced by 15 % in total over three marketing years from 1 July 2005; whereas the effects of this measure on internal consumption and export of milk and milk products justify a well balanced increase in the total reference quantity for milk in the Community following the respective price cuts on the one hand and targeting certain structural problems at an earlier stage on the other;
- (3) Whereas the individual reference quantity should be defined as the quantity available, irrespective of any quantities which may have been transferred temporarily, on 31 March 2000, the expiry date of the seven periods of application of the levy scheme following its prolongation decided in 1992;
- (4) Whereas the underuse of reference quantities by producers can prevent the sector of milk production from developing properly; whereas in order to avoid such practices Member States should have the possibility to decide in accordance with the general principles of Community law that, in cases of substantial underuse over a significant period of time, the unused reference quantities will revert to the national reserve with a view to their reallocation to other producers;
- (5) Whereas in order to strengthen the possibilities for decentralised management of reference quantities for restructuring of milk production or environmental improvement Member States should

⁽¹⁾ OJ C 170, 4.6.1998, p. 60.

⁽²⁾ Opinion delivered on 6 May 1999 (not yet published in the Official Journal).

⁽³⁾ OJ C 407, 28.12.1998, p. 203.

⁽⁴⁾ OJ C 93, 6.4.1999, p. 1.

⁽⁵⁾ OJ C 401, 22.12.1998, p. 3.

⁽⁶⁾ OJ L 405, 31.12.1992, p. 1. Regulation as last amended by Commission Regulation (EC) No 751/1999 (OJ L 96, 10.4.1999, p. 11).

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be given the power to implement certain provisions in that context at the appropriate territorial level or in collection areas;

- (6) Whereas the experience with the additional levy scheme has shown that the transfer of reference quantities through legal constructions such as leases which do not necessarily lead to a permanent allocation of the reference quantities concerned to the transferee, can be an additional cost factor for milk production hampering the improvement of production structures; whereas, in order to strengthen the reference quantities' character as a means of regulating the market of milk and milk products, the Member States should be authorised to allocate reference quantities, which have been transferred through leases or comparable legal means, to the national reserve for re-distribution, on the basis of objective criteria, to active producers in particular to those who have used them before; whereas Member States should also have the right to organise the transfer of reference quantities in a different way than by the means of individual transactions between producers; whereas it should be explicitly provided, in particular with a view to taking account adequately of existing legal rights, that, when using these authorisations, Member States are to take the necessary measures to comply with the general principles of Community law;
- (7) Whereas a certain number of provisions in Regulation (EEC) No 3950/92 have become obsolete and should therefore be deleted,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3950/92 is hereby amended as follows:

1. Article 1, first subparagraph shall be replaced by the following:

‘For eight new consecutive periods of 12 months commencing on 1 April 2000, an additional levy shall be payable by producers of cow’s milk on quantities of milk or milk equivalent delivered to a purchaser or sold directly for consumption during the 12-month period in question in excess of a quantity to be determined.’
2. The table in Article 3(2) shall be replaced by the table in Annex I to this Regulation.
3. Article 3(2) shall be replaced by the following:

‘2. The total quantities set out in the Annex shall be fixed without prejudice to possible review in the light of the general market situation and particular conditions existing in certain Member States.

The overall quantity for the Finnish deliveries quota may be increased to compensate Finnish “SLOM” producers, up to a maximum of 200 000 tonnes, to be allocated in accordance with Community legislation. This reserve must be non-transferable and used exclusively on behalf of producers whose right to take up production again will be affected as a result of accession.

The increase in overall quantities, and the conditions under which the individual reference quantities provided for in the preceding subparagraph shall be granted, shall be decided upon in accordance with the procedure referred to in Article 11.’
4. Article 3(3) shall be deleted.
5. Article 4 shall be replaced by the following:

Article 4

1. The individual reference quantity available on the holding shall be equal to the quantity available on 31 March 2000. It shall be adjusted, where appropriate, for each of the periods concerned, so that the sum of the individual reference quantities of the same type does not exceed the corresponding global quantities referred to

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in Article 3, taking account of any reductions made for allocation to the national reserve provided for in Article 5.

2. Individual reference quantities shall be increased or established at the duly justified request of producers to take account of changes affecting their deliveries and/or direct sales. The increase or establishment of such a reference quantity shall be subject to a corresponding reduction or cancellation of the other reference quantity the producer owns. Such adjustments may not lead to an increase in the sum of the deliveries and direct sales referred to in Article 3 for the Member State concerned.

Where the individual reference quantities undergo a definitive change, the quantities referred to in Article 3 shall be adjusted in accordance with the procedure laid down in Article 11.'

6. Article 5 shall be replaced by the following:

'Article 5

Within the quantities referred to in Article 3, the Member State may replenish the national reserve following an across-the-board reduction in all the individual reference quantities in order to grant additional or specific quantities to producers determined in accordance with objective criteria agreed with the Commission.

Without prejudice to Article 6(1), reference quantities available to producers who have not marketed milk or other milk products for one of the 12-month periods shall be allocated to the national reserve and may be reallocated in accordance with the first subparagraph. Where the producer resumes production of milk or other milk products within a period to be determined by the Member State, he shall be granted a reference quantity in accordance with Article 4(1) no later than 1 April following the date of his application.

Where during at least one 12 months period a producer does not make use, either through deliveries or direct sales, of at least 70 % of the individual reference quantity available to him, Member States may decide in compliance with the general principles of Community law:

- whether and under which conditions the total or part of the unused reference quantity shall revert to the national reserve. However, unused reference quantities shall not revert to the national reserve in case of *force majeure* and in duly justified cases affecting the production capacity of the producers concerned and recognised by the competent authority;
- under which conditions a reference quantity shall be reallocated to the producers concerned.'

7. Article 6(1), first subparagraph shall be replaced by the following:

'1. Before a date that they shall determine and by 31 March at the latest, Member States shall authorise, for the 12-month period concerned, temporary transfers of individual reference quantities which producers who are entitled thereto do not intend to use.'

8. Article 7(1) shall be replaced by the following:

'1. Reference quantities available on a holding shall be transferred with the holding in the case of sale, lease or transfer by inheritance to the producers taking it over in accordance with detailed rules to be determined by the Member States taking account of the areas used for dairy production or other objective criteria and, where applicable, of any agreement between the parties.

Any part of the reference quantity, which is not transferred with the holding, shall be added to the national reserve. However, if a part reverted to the national reserve on the occasion of a transfer of reference quantities the reduction shall not apply to cases where reference quantities are transferred back.

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The same provisions shall apply to other cases of transfers involving comparable legal effects for producers.

However, where land is transferred to public authorities and/or for use in the public interest, or where the transfer is carried out for non-agricultural purposes, Member States shall provide that the measures necessary to protect the legitimate interests of the parties are implemented, and in particular that the departing producer is in a position to continue milk production, if such is his intention.'

9. Article 8 shall be replaced by the following:

'Article 8

With a view to completing restructuring of milk production or to environmental improvement, Member States may take one or more of the following actions in accordance with detailed rules which they shall lay down taking account of the legitimate interests of the parties:

- (a) grant compensation in one or more annual instalments to producers who undertake to abandon definitively all or part of their milk production and place the reference quantities thus released in the national reserve,
- (b) determine on the basis of objective criteria the conditions under which producers may obtain, in return for payment, at the beginning of a 12-month period, the reallocation by the competent authority or by the body designated by that authority, of reference quantities released definitively at the end of the preceding 12-month period by other producers in return for compensation in one or more annual instalments equal to the abovementioned payment,
- (c) provide, in the case of land transferred with a view to improving the environment, for the allocation of the reference quantity available on the holding concerned to the departing producer if he intends continuing milk production,
- (d) determine, on the basis of objective criteria, the regions or collection areas within which the definitive transfer of reference quantities without transfer of the corresponding land is authorised, with the aim of improving the structure of milk production,
- (e) authorise, upon application by the producer to the competent authority or the body designated by that authority, the definitive transfer of reference quantities without transfer of the corresponding land, or vice versa, with the aim of improving the structure of milk production at the level of the holding or to allow for extensification of production.

The rules under (a), (b), (c) and (e) may be implemented at national level or at the appropriate territorial level or in collection areas.'

10. The following shall be inserted after Article 8:

'Article 8a

Acting in compliance with the general principles of Community law, Member States may take the following measures, with the aim of ensuring that reference quantities are solely attributed to active milk producers:

- (a) Without prejudice to Article 7(1), second subparagraph, where reference quantities have been or are transferred with or without the corresponding land by means of rural leases or by other means involving comparable legal effects, Member States may decide on the basis of objective criteria whether and under which conditions all or part of the transferred reference quantity shall revert to the national reserve.

This provision shall not apply to temporary transfers under Article 6.

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(b) Member States may decide not to apply the provisions on transfer of reference quantities in Article 7(1).'

11. The Annex set out in Annex II to this Regulation is hereby added to Regulation (EEC) No 3950/92.

Article 2

Where transitional measures are necessary to facilitate the implementation of the amendments provided for in Article 1, they shall be adopted in accordance with the procedure referred to in Article 11 of Regulation (EEC) No 3950/92.

Article 3

The Council undertakes to conduct a mid-term review in 2003, on the basis of a Commission report, with the aim of allowing the present quota arrangements to run out after 2006.

Article 4

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

It shall apply from 1 April 2000, save for Article 1, point 2, which shall apply from the date of entry into force thereof.

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

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ANNEX I

Total reference quantities as applicable from 1 April 1999 to 31 March 2000*(in tonnes)*

Member States	Deliveries	Direct sales
Belgium	3 140 696	169 735
Denmark	4 454 640	708
Germany ⁽¹⁾	27 767 036	97 780
Greece	629 817	696
Spain	5 457 564	109 386
France	23 793 932	441 866
Ireland	5 236 575	9 189
Italy	9 698 399	231 661
Luxembourg	268 098	951
Netherlands	10 991 900	82 792
Austria	2 543 979	205 422
Portugal	1 835 461	37 000
Finland	2 394 528	10 000
Sweden	3 300 000	3 000
United Kingdom	14 373 969	216 078

⁽¹⁾ Of which 6 242 180 tonnes for deliveries by producers in the new Länder and 11 187 tonnes for direct sales in the new Länder.

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ANNEX II

'ANNEX

(a) Total reference quantities referred to in Article 3(2) as applicable from 1 April 2000 to 31 March 2001*(in tonnes)*

Member States	Deliveries	Direct sales
Belgium	3 140 696	169 735
Denmark	4 454 640	708
Germany	27 767 036	97 780
Greece	674 617	696
Spain	5 807 564	109 386
France	23 793 932	441 866
Ireland	5 332 575	9 189
Italy	10 082 399	231 661
Luxembourg	268 098	951
Netherlands	10 991 900	82 792
Austria	2 543 979	205 422
Portugal	1 835 461	37 000
Finland	2 394 528	10 000
Sweden	3 300 000	3 000
United Kingdom	14 386 577 (*)	216 078

(*) Specific quota increase for allocation to Northern Ireland.

(b) Total reference quantities referred to in Article 3(2) as applicable from 1 April 2001 to 31 March 2002*(in tonnes)*

Member States	Deliveries	Direct sales
Belgium	3 140 696	169 735
Denmark	4 454 640	708
Germany	27 767 036	97 780
Greece	699 817	696
Spain	6 007 564	109 386
France	23 793 932	441 866
Ireland	5 386 575	9 189
Italy	10 298 399	231 661
Luxembourg	268 098	951
Netherlands	10 991 900	82 792
Austria	2 543 979	205 422
Portugal	1 835 461	37 000
Finland	2 394 528	10 000
Sweden	3 300 000	3 000
United Kingdom	14 393 669 (*)	216 078

(*) Specific quota increase for allocation to Northern Ireland.

▼ **B****(c) Total reference quantities referred to in Article 3(2) as applicable from 1 April 2002 to 31 March 2005***(in tonnes)*

Member States	Deliveries	Direct sales
Belgium	3 140 696	169 735
Denmark	4 454 640	708
Germany	27 767 036	97 780
Greece	699 817	696
Spain	6 007 564	109 386
France	23 793 932	441 866
Ireland	5 386 575	9 189
Italy	10 298 399	231 661
Luxembourg	268 098	951
Netherlands	10 991 900	82 792
Austria	2 543 979	205 422
Portugal	1 835 461	37 000
Finland	2 394 528	10 000
Sweden	3 300 000	3 000
United Kingdom	14 393 669	216 078

(d) Total reference quantities referred to in Article 3(2) as applicable from 1 April 2005 to 31 March 2006*(in tonnes)*

Member States	Deliveries	Direct sales
Belgium	3 157 248	169 735
Denmark	4 476 917	708
Germany	27 906 360	97 780
Greece	699 817	696
Spain	6 007 564	109 386
France	23 915 111	441 866
Ireland	5 386 575	9 189
Italy	10 298 399	231 661
Luxembourg	269 443	951
Netherlands	11 047 273	82 792
Austria	2 557 726	205 422
Portugal	1 844 823	37 000
Finland	2 406 551	10 000
Sweden	3 316 515	3 000
United Kingdom	14 466 619	216 078

(e) Total reference quantities referred to in Article 3(2) as applicable from 1 April 2006 to 31 March 2007*(in tonnes)*

Member States	Deliveries	Direct sales
Belgium	3 173 800	169 735
Denmark	4 499 193	708
Germany	28 045 684	97 780
Greece	699 817	696
Spain	6 007 564	109 386

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Member States	Deliveries	Direct sales
France	24 036 290	441 866
Ireland	5 386 575	9 189
Italy	10 298 399	231 661
Luxembourg	270 788	951
Netherlands	11 102 647	82 792
Austria	2 571 473	205 422
Portugal	1 854 186	37 000
Finland	2 418 573	10 000
Sweden	3 333 030	3 000
United Kingdom	14 539 569	216 078

(f) **Total reference quantities referred to in Article 3(2) as applicable from 1 April 2007 to 31 March 2008***(in tonnes)*

Member States	Deliveries	Direct sales
Belgium	3 190 352	169 735
Denmark	4 521 470	708
Germany	28 185 008	97 780
Greece	699 817	696
Spain	6 007 564	109 386
France	24 157 469	441 866
Ireland	5 386 575	9 189
Italy	10 298 399	231 661
Luxembourg	272 134	951
Netherlands	11 158 020	82 792
Austria	2 585 220	205 422
Portugal	1 863 548	37 000
Finland	2 430 596	10 000
Sweden	3 349 545	3 000
United Kingdom	14 612 520	216 078*