

**COUNCIL REGULATION (EEC) No 2204/90**

of 24 July 1990

**laying down additional general rules on the common organization of the market  
in milk and milk products as regards cheese**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(2)</sup>,

Whereas Article 11 of Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products <sup>(3)</sup>, as last amended by Regulation (EEC) No 3879/89 <sup>(4)</sup>, provides for the granting of aid, since the introduction of that organization, for skimmed milk produced in the Community and processed with a view to the manufacture of casein and caseinates; whereas that aid for disposal must ensure for the Community producers concerned a market position identical to that of producers of non-Community casein and caseinates the products of which, following a binding of customs duties, are available on the Community market at the world market price;

Whereas technical progress combined with the arrangements for controlling milk production have had the result of developing the use of casein and caseinates in products for which the primary objective of the aid did not intend them; whereas such substitution operations resulted in affecting the stability of the milk market; whereas, while it appears vital, for reasons of competition, to maintain the principle of aid of a sufficient amount, measures to ensure that the granting of the aid may not disturb the balance of the milk market and that casein and caseinates of Community and non-Community origin receive the same treatment must be adopted;

Whereas the characteristics of casein and caseinates and those of cheese show similarities such that the latter products are particularly vulnerable to the abovementioned substitution operations; whereas only the use of casein and caseinates in cheese should accordingly be governed by rules at Community level;

Whereas the sound operation of such arrangements requires, on the part of the Member States, controls ensu-

ring compliance with the obligations laid down: whereas, to that end, provision should be made in particular for controls and the relevant penalties: whereas the penalties must be such as to neutralize at least the economic benefit arising from unauthorized utilization,

HAS ADOPTED THIS REGULATION:

*Article 1*

The use of casein and caseinates in the manufacture of cheese shall be subject to prior authorization, which shall be granted only if such use is a necessary condition for the manufacture of the products.

According to the procedure laid down in Article 30 of Regulation (EEC) No 804/86, the Commission shall determine the conditions under which States shall grant the authorizations and the maximum percentages to be incorporated, on the basis of objective criteria laid down having regard to what is technologically necessary.

*Article 2*

For the purposes of this Regulation:

- (a) 'cheese' means products covered by CN code 0406 and manufactured within Community territory;
- (b) 'casein and caseinates' means products covered by CN codes 3501 10 90 and 3501 90 90 and used as such or in the form of a mixture.

*Article 3*

1. The Member States shall introduce administrative and physical controls involving the following measures:—

- (a) the obligation to declare the quantities and types of cheese manufactured and the quantities of casein and caseinates incorporated into the various products;
- (b) the obligation on each undertaking to keep stock accounts enabling the quantities and types of cheese manufactured, the quantities of casein and caseinates purchased and/or manufactured and their destination and/or utilization to be recorded;
- (c) frequent, unannounced spot checks in order to cross-check the stock accounts on the one hand and appropriate commercial documents and stocks actually held on the other hand; such checks shall relate to a representative number of the declarations referred to in (a) in order to check the facts.

<sup>(1)</sup> Opinion delivered on 13 July 1990 (not yet published in the Official Journal).

<sup>(2)</sup> Opinion delivered on 4 July 1990 (not yet published in the Official Journal).

<sup>(3)</sup> OJ No L 148, 28. 6. 1968, p. 13.

<sup>(4)</sup> OJ No L 378, 27. 12. 1989, p. 1.

2. The Member States shall notify the Commission of all measures adopted pursuant to this Regulation and of those ensuring that the parties concerned are informed as to the penal or administrative penalties to which they are liable in the case of failure to comply with the provisions of this Regulation, observed

- either pursuant to the measures adopted under paragraph 1,
- or during any check that the public authorities conduct concerning the undertakings which manufacture cheeses but which are not subject to the provisions of paragraph 1.

3. Without prejudice to the penalties laid down, or to be laid down, by the Member State concerned, a sum equal to the difference between the value of the skimmed milk resulting from the intervention price for skimmed-milk powder on the one hand and the market price for casein and caseinates on the other hand, plus 10 %, shall be due for quantities of casein and caseinates used without authorization.

Those values shall be ascertained 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, 24 July 1990.

#### Article 4

After the arrangements provided for by this Regulation have been applied for one year, the Commission shall draw up a report, together with any appropriate proposals, on the operation and impact of the arrangements.

#### Article 5

The detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68.

#### Article 6

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

It shall apply from 15 October 1990. Until that date the provisions in force, and in particular Article 2 (4) of Council Regulation (EEC) No 987/68 of 15 July 1968 laying down general rules for granting aid for skimmed milk processed into caseins or caseinates<sup>(1)</sup>, as last amended by Regulation (EEC) No 1435/90<sup>(2)</sup>, shall continue to apply.

For the Council

The President

C. MANNINO

<sup>(1)</sup> OJ No L 169, 18. 7. 1968, p. 6.

<sup>(2)</sup> OJ No L 138, 31. 5. 1990, p. 8.