



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 07.05.1998
COM(1998) 287 final

COMMUNICATION FROM THE COMMISSION

on compensation for certain producers of milk and milk products temporarily prevented from carrying on their trade ("SLOM producers") - follow-up to the implementation of Council Regulation (EEC) N° 2187/93

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1. On 28 April 1995, the Commission transmitted a communication (COM(95)150 final) to the Council on the implementation of Council Regulation (EEC) N° 2187/93 ("the Regulation"), which was considered by the Special Committee on Agriculture at its 989th meeting on 6th June 1995. In addition to reporting on the execution of the Regulation, it proposed that the Commission should proceed to settle, on the same financial basis as the Regulation, the cases of certain categories of SLOM producers who had been unable or who had failed to take advantage of the provisions of the Regulation. These categories were :
 - producers who obtained a SLOM reference quantity as a result of legal action against national authorities after the cut-off date in the Regulation;
 - producers who failed to meet certain time-limits set out in the Regulation;
 - cases of force majeure, or which should be treated as such.
2. Following the approval given to this course of action at the above-mentioned meeting of the Special Committee on Agriculture, and the necessary information on the cases having subsequently been obtained from the Member States, the Commission approved a communication (SEC(96)987/2 and 3) on 5 June 1996 to implement the procedure to compensate these producers, which was referred to as the "clearing up" action. Under the procedure, offers of compensation were made by the Member States concerned to the producers identified as falling into the specific categories, which could be accepted within a time limit in full and final settlement of their claims as under the Regulation. Almost 200 further cases of SLOM producers were settled under the "clearing up" action.
3. The communication to the Council of 1995 identified a further category of producers whose claims it had not been possible to settle under the Regulation, namely those who contested the legality of Article 8 of the Regulation relating to the application to the producers' claims of the provisions of Article 43 of the Statute of the Court of Justice on the limitation of actions. In its judgment of 16 April 1997 in the case T-20/94 (Hartmann against Council and Commission), the Court of First Instance construed Article 43 of the Statute in a way which was entirely in conformity with the approach followed in Article 8 of the Regulation. As a consequence the legality of Article 8 of the Regulation must be considered as having been confirmed by this judgment. Accordingly a settlement of the Hartmann-type cases could now be

envisaged. The Commission considers to be Hartmann-type cases those cases in which

- the applicant is a SLOM I or II producer and
- the applicant had received an offer of compensation pursuant to the Regulation and
- the applicant refused to accept the offer not because of the amount of annual compensation laid down by the regulation but for the sole reason that, pursuant to the application of Article 8 of the Regulation concerning the time bar rules, the period for which compensation was offered had been reduced.

It is estimated that there are about 55 producers in this group whose cases are pending before the Court of First Instance. It is proposed that the direct settlement of these claims should be carried out following a similar procedure to that under the "clearing up" action referred to in paragraph 2.

4. The settlement would be based on the financial parameters of the Regulation, but the rate of interest to be paid would be adapted in order to avoid the consequence that this category of producers should benefit financially from having pursued their cases before the Court of First Instance. The Commission believes that the settlement of these cases is appropriate given that the only point of the Regulation contested was the application of the limitation rules, and that it will result in a significant further reduction in the remaining outstanding claims.

It is foreseen that within the framework of this further "clearing-up" action, it would also be possible to take into account a few additional cases of producers who received a SLOM reference quantity after the cut off date in the first "clearing up" action, as well as some remaining "force majeure" type cases. There are about 10 such cases to the knowledge of the Commission.

5. Following the judgment of the Court of First Instance of 9 December 1997 in joined cases T-195/94 and T-202/94 (Quiller and Heusmann) which decided that the Community is, as a matter of principle, liable to compensate the damages suffered by SLOM III producers, the Commission will shortly present to the Council a proposal for a regulation providing for arrangements for the settlement of the claims of this group of producers. It is anticipated that in its proposal the Commission will provide for a general legal base permitting the settlement of the claims of producers which fall outside the strict conditions of the arrangements adopted, but whose circumstances satisfy the conditions for non-contractual liability of the Community as laid down in the judgments of the Court of Justice and the Court of First Instance. This would provide a basis for the settlement of the categories of cases covered by the first "clearing up" action and that which is now foreseen.
6. The Commission therefore asks the Council to acknowledge this communication and its conclusions.

FINANCIAL STATEMENT

(fiche/98/007.doc)l

DATE :5/05/98

1. BUDGET HEADING : B1-2090 APPROPRIATIONS : p.m.

2. TITLE :
Communication from the Commission to the Council on compensation for certain producers of milk and milk products temporarily prevented from carrying on their trade ("SLOM producers") follow-up to the implementation of Council Regulation (EEC) n° 2187/93

3. LEGAL BASIS : Article 215 of the Treaty

4. AIMS :
To notify progress as regards the settlement of outstanding claims of SLOM producers and in particular to inform the Council of the Commission's intention to compensate certain further categories of those entitled by means of direct transactions.

5. FINANCIAL IMPLICATIONS	PERIOD OF 12 MONTHS	CURRENT FINANCIAL YEAR (1998)	FOLLOWING FINANCIAL YEAR (1999)	
5.0 EXPENDITURE - CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTION) - NATIONAL AUTHORITIES - OTHER	ECU 2,4 million	ECU 2,4 million	p.m.	
5.1 REVENUE - OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES) - NATIONAL				

	2000	2001	2002	2003
5.0.1 ESTIMATED EXPENDITURE	-	-	-	-
5.1.1 ESTIMATED REVENUE	-	-	-	-

5.2 METHOD OF CALCULATION :
The cases referred to in paragraph 3
 Number of cases : 55
 Average : ECU 24.000
 Cost : 55 x ECU 24.000 = ECU (A) 1,3 million
The cases referred to in paragraph 4
 Estimation : ECU (A) 0,7 million

 TOTAL COST : ECU 1,3 million + 0,7 million : ECU 2 million x 1,191 (DR) 2,4 Mio ECU (B)

6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET ? YES

6.1 CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET ?

6.2 WILL A SUPPLEMENTARY BUDGET BE NECESSARY ?

6.3 WILL FUTURE BUDGET APPROPRIATIONS BE NECESSARY NO

OBSERVATIONS :

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