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COUNCIL REGULATION (EC) No 1788/2003
of 29 September 2003
establishing a levy in the milk and milk products sector
(OJ L 270, 21.10.2003, p. 123)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Council Regulation (EC) No 2217/2004 of 22 December 2004	L 375	1	23.12.2004
► <u>M2</u>	Council Regulation (EC) No 1406/2006 of 18 September 2006	L 265	8	26.9.2006
► <u>M3</u>	Commission Regulation (EC) No 336/2007 of 28 March 2007	L 88	43	29.3.2007

Amended by:

► <u>A1</u>	Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (adapted by Council Decision 2004/281/EC of 22 March 2004)	L 236	33	23.9.2003
► <u>A2</u>	Act of accession of Bulgaria and Romania	L 93	1	30.3.2004
		L 157	29	21.6.2005

Corrected by:

- **C1** Corrigendum, OJ L 94, 31.3.2004, p. 71 (1788/2003)



COUNCIL REGULATION (EC) No 1788/2003
of 29 September 2003
establishing a 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,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) Council Regulation (EEC) No 856/84 of 31 March 1984 amending Regulation (EEC) No 804/68 on the common organisation of the market in milk and milk products ⁽²⁾ introduced an additional levy scheme in that sector from 2 April 1984. The scheme has been extended several times, in particular by Council Regulation (EEC) No 3950/92 of 28 December 1992 establishing an additional levy in the milk and milk products sector ⁽³⁾ and most recently, until 31 March 2008, by 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 ⁽⁴⁾.
- (2) In order both to benefit from the lessons learned and to simplify and clarify the scheme, Regulation (EEC) No 3950/92 should be repealed and the rules governing the extended scheme should be reorganised and clarified.
- (3) The main purpose of the scheme is to reduce the imbalance between supply and demand on the milk and milk products market and the resulting structural surpluses, thereby achieving better market equilibrium. It should therefore continue to be applied for seven further consecutive twelve-month periods starting on 1 April 2008. Those periods are to be added to the periods already provided for in Regulation (EEC) No 3950/92.
- (4) The method adopted in 1984, which consists of applying a levy to quantities of milk collected or sold for direct consumption above a certain guarantee threshold, should be maintained. This guarantee threshold is fixed for each Member State as a guaranteed total quantity for a reference milk-fat content.
- (5) The levy should be set at a dissuasive level and be payable by the Member States as soon as the national reference quantity is exceeded. The Member State should then divide the burden of payment among the producers who have contributed to the overrun. The latter must be liable vis-à-vis the Member State for payment of their contribution to the levy due for the mere fact of having overrun their available quantity.
- (6) Member States shall pay to the EAGGF, Guarantee Section, the levy corresponding to the overrun of their national reference amount, reduced by a flat-rate amount of 1 % in order to take account of cases of bankruptcy or the definitive inability of

⁽¹⁾ Opinion delivered on 5 June 2003 (not yet published in the Official Journal).

⁽²⁾ OJ L 90, 1.4.1984, p. 10.

⁽³⁾ OJ L 405, 31.12.1992, p. 1. Regulation as last amended by Regulation (EC) No 2028/2002 (OJ L 313, 16.11.2002, p. 3).

⁽⁴⁾ OJ L 160, 26.6.1999, p. 73.

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certain producers to make their contribution to the payment of the levy due.

- (7) Member States should be allowed a certain amount of time to allocate the levy to be paid among producers and to pay it to the EAGGF Guarantee Section. If they are unable to meet the time limit set, it should be ensured that the amounts due are available in the EAGGF Guarantee Section, by deducting them from the monthly refunds made to Member States. This involves derogating from the procedure laid down in Article 14 of Council Regulation (EC) No 2040/2000 of 26 September 2000 on budgetary discipline ⁽¹⁾.
- (8) Regulation (EEC) No 3950/92 provided for a distinction between deliveries and direct sales. Experience has shown that administration should be simplified by restricting deliveries to whole milk and excluding all other milk products. Consequently, direct sales must henceforth include sales and direct transfers of milk to consumers, as well as all sales and transfers of other milk products.
- (9) For each individual reference quantity for deliveries there should be a matching representative fat rate established with reference to existing and modifiable rates in accordance with rules to be defined. Rules should be laid down to ensure that the difference between the weighted average of the individual representative fat contents and the relevant national reference fat content remains minimal.
- (10) A simplified procedure should be laid down to divide the individual reference quantities between deliveries and direct sales, with an obligation to provide the Commission with the necessary information to make that allocation and to calculate the levy. This allocation should be based on the reference quantities held by producers for the twelve-month period commencing on 1 April 2003. The sum of the quantities allocated to the producers by the Member States may not exceed the national reference quantities. The national reference quantities are to be established for the eleven periods from 1 April 2004 and to take account of the different components of the previous scheme.
- (11) It is necessary to determine the way the fat content of milk is to be taken into account when drawing up the definitive statement of quantities delivered. It should be stressed that under no circumstances may individual downward corrections of the fat content of delivered milk or the separation of milk into its different components result in a deduction from the levy payment of any quantity in excess of the guaranteed total quantity in a Member State. In view of the negligible quantities concerned, there is no need to take account of fat content for direct sales.
- (12) In order to ensure that the scheme runs effectively, the contribution to the levy due from the producers should be collected by the purchasers, who are in the best position to carry out the necessary transactions and who should therefore be given the means to ensure that they can collect this contribution. Conversely, any amount collected which exceeds the levy due by the Member State should be used to finance national restructuring programmes and/or reimbursed to certain categories of producers or those in an exceptional situation. However, where it is found that no levy is due by the Member State, any advances collected should be reimbursed.
- (13) Experience has shown that implementing this scheme presupposes the existence of a national reserve enabling, on the basis of objective criteria, producers to obtain extra quantities or

⁽¹⁾ OJ L 244, 29.9.2000, p. 27.

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new producers to start up, and replenished with any quantities which, for whatever reason, are not or no longer allocated individually. In order to enable the Member State to respond to specific situations, determined by objective criteria, it should be authorised to make allocations to the national reserve by across-the-board reductions in all reference quantities or by deductions from definitive transfers of these quantities.

- (14) In order to ensure that administration of the scheme remains sufficiently flexible, the Member States should be authorised to reallocate unused reference quantities at the end of a period, either nationally or among purchasers.
- (15) The under-use of reference quantities by producers can prevent milk production from developing properly. In order to avoid such problems, Member States should be able to decide that, in cases of inactivity or substantial under-use over a significant period of time, unused reference quantities are to revert to the national reserve to be re-allocated to other producers. However, provision must be made for cases where producers who are temporarily unable to produce wish to resume production.
- (16) The temporary transfer of parts of individual reference quantities in Member States which have authorised this has proved to enhance the effectiveness of the scheme. However, this mechanism should not be implemented where it might run counter to structural trends and adjustments, nor should any resulting administrative difficulties be underrated, nor should former producers who have given up production be allowed to keep their quota beyond the time strictly needed for it to be transferred to an active producer.
- (17) When the scheme was introduced in 1984, the principle was established that when a farm is sold, leased or transferred by inheritance, the corresponding reference quantity is transferred to the purchaser, tenant or heir together with the relevant land. It would not be appropriate to alter this original decision. However, national provisions to safeguard the legitimate interests of the parties should be implemented in all cases of transfer where the parties are not in agreement.
- (18) In order to continue the restructuring of milk production and improve the environment, some exceptions should be made to the principle that reference quantities are tied to farms, and the Member States should be authorised to keep open the option to implement national or regional restructuring programmes. Member States should also be entitled to organise the transfer of reference quantities in other ways than through individual transactions between producers.
- (19) In line with the various types of transfer of reference quantities and using objective criteria, Member States should be authorised to place part of the transferred quantities in the national reserve.
- (20) 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. In order to strengthen the regulatory effect of the reference quantities on the market for 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. Member States should also have the right to organise the transfer of reference quantities by means other than by individual transactions between producers.

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- (21) In order to avoid increasing the cost of means of production or causing unequal treatment, it should be stressed that all public financial assistance during acquisition or transfer of quotas is prohibited.
- (22) The main purpose of the levy provided for in this Regulation is to regularise and stabilise the market in milk products. The revenue accruing from this levy should therefore be used to finance expenditure in the milk sector.
- (23) The measures needed to implement this Regulation should be taken pursuant to Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾,

HAS ADOPTED THIS REGULATION:

CHAPTER 1
GENERAL PROVISIONS

Article 1

Scope

1. For 11 consecutive periods of twelve months commencing on 1 April 2004 (hereinafter referred to as 'twelve-month periods'), a levy is hereby introduced (hereinafter referred to as 'the levy') on quantities of cow's milk and other milk products marketed during the twelve-month period concerned in excess of the national reference quantities fixed in Annex I.
2. These quantities shall be divided between producers in accordance with Article 6, distinguishing between deliveries and direct sales as defined in Article 5. Any overrun of the national reference quantity and the resulting levy shall be determined nationally in each Member State, in accordance with Chapter 3 and making a distinction between deliveries and direct sales.
3. The national reference quantities in Annex I shall be fixed without prejudice to possible review in the light of the general market situation and particular conditions existing in certain Member States.

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4. For the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia and Slovakia a special restructuring reserve shall be established as set out in table (g) of Annex I. This reserve shall be released as from 1 April 2006 to the extent that the onfarm consumption of milk and milk products in each of these countries has decreased since 1998 for Estonia and Latvia and 2000 for the Czech Republic, Lithuania, Hungary, Poland, Slovenia and Slovakia. The decision on releasing the reserve and of its distribution to the deliveries and direct sales quota shall be taken by the Commission in accordance with the procedure referred to in Article 23(2) of Regulation (EC) No 1788/2003 on the basis of an assessment of a report to be submitted by the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia and Slovakia to the Commission by 31 December 2005. This report shall detail the results and trends of the actual restructuring process in the country's dairy sector and, in particular the shift from production for on-farm consumption to production for the market.

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For Bulgaria and Romania a special restructuring reserve shall be established as set out in table (g) of Annex I. This reserve shall be released as from 1 April 2009 to the extent that the on-farm consumption of milk

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

▼ A2

and milk products in each of these countries has decreased since 2002. The decision on releasing the reserve and its distribution to the deliveries and direct sales quota shall be taken by the Commission in accordance with the procedure referred to in Article 23(2) on the basis of an assessment of a report to be submitted by Bulgaria and Romania to the Commission by 31 December 2008. This report shall detail the results and trends of the actual restructuring process in the country's dairy sector and, in particular the shift from production for on-farm consumption to production for the market.

5. For Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia the national reference quantities shall include all cow's milk or milk equivalent delivered to a purchaser or sold directly, as defined under Article 5 of this Regulation, irrespective of whether it is produced or marketed under a transitional measure applicable in these countries.

6. For Bulgaria and Romania the levy shall apply from 1 April 2007.

▼ B*Article 2***Levy**

The levy shall be set, per 100 kilograms of milk, at EUR 33,27 for the 2004/2005 period, EUR 30,91 for 2005/2006, EUR 28,54 for 2006/2007 and EUR 27,83 for the period 2007/2008 and thereafter.

*Article 3***Payment of the levy****▼ M2**

1. Member States shall be liable to the Community for the levy resulting from overruns of the national reference quantity fixed in Annex I, determined nationally and separately for deliveries and direct sales, and between 16 October and 30 November following the twelve-month period concerned, shall pay it, within the limit of 99 % of the amount due, into the European Agricultural Guidance and Guarantee Fund (EAGGF).

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2. If the levy provided for in paragraph 1 has not been paid before the due date and after consultation of the Committee of the European Agricultural Guidance and Guarantee Fund, the Commission shall deduct a sum equivalent to the unpaid levy from the monthly advances on the provision for expenditure effected by the Member State concerned within the meaning of Article 5(1) and Article 7(2) of Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy⁽¹⁾. Before taking its decision, the Commission shall warn the Member State concerned, which shall make its position known within one week. The provisions of Article 14 of Regulation (EC) No 2040/2000 shall not apply.

3. The Commission shall determine the arrangements for implementation of this Article in accordance with the procedure laid down in Article 23(2).

*Article 4***Contribution of producers to the levy due**

The levy shall be entirely allocated, in accordance with the provisions of Articles 10 and 12, among the producers who have contributed to each

⁽¹⁾ OJ L 160, 26.6.1999, p. 103.

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of the overruns of the national reference quantities referred to in Article 1(2).

Without prejudice to Article 10(3) and Article 12(1), producers shall be liable vis-à-vis the Member State for payment of their contribution to the levy due, calculated in accordance with the provisions of Chapter 3, for the mere fact of having overrun their available reference quantities.

*Article 5***Definitions**

For the purposes of this Regulation:

- (a) ‘milk’ shall mean the produce of the milking of one or more cows;
- (b) ‘other milk products’ means any milk product other than milk, in particular skimmed milk, cream, butter, yoghurt and cheese; when relevant, these shall be converted into ‘milk equivalents’ by applying coefficients to be fixed in accordance with the procedure provided for in Article 23(2);
- (c) ‘producer’ means farmers as defined in Article 2(a) of Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and support schemes for producers of certain crops ⁽¹⁾, with a holding located within the geographical territory of a Member State, who produce and market milk or who are preparing to do so in the very near future;
- (d) ‘holding’ means holdings as defined in Article 2(b) of Regulation (EC) No 1782/2003;
- (e) ‘purchaser’ means undertakings or groups which buy milk from producers:
 - to subject it to collecting, packing, storing, chilling and processing, including under contract,
 - to sell it to one or more undertakings treating or processing milk or other milk products.

However, any group of purchasers in the same geographical area which carries out the administrative and accounting operations necessary for the payment of the levy on behalf of its members shall be regarded as a purchaser. For the purposes of the first sentence of this subparagraph, Greece shall be considered a single geographical area and it may deem an official body to be a group of purchasers as referred to above;

- (f) ‘delivery’ means any delivery of milk, not including any other milk products, by a producer to a purchaser, whether the transport is carried out by the producer, a purchaser, an undertaking processing or treating such products or a third party;
- (g) ‘direct sale’ means any sale or transfer of milk by a producer directly to consumers, as well as any sale or transfer of other milk products by a producer. The Commission may, in accordance with the procedure referred to in Article 23(2) and while respecting the definition of ‘delivery’ given in (f) of this Article, adjust the definition of ‘direct sale’ in order to ensure, in particular, that no quantity of milk or other marketed milk products is excluded from the levy arrangements;
- (h) ‘marketing’ means deliveries of milk or direct sales of milk or other milk products;
- (i) ‘national reference quantity’ means the reference quantity fixed in Annex I for each Member State;

⁽¹⁾ See page 1 of this Official Journal.

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- (j) 'individual reference quantity' means a producer's reference quantity at 1 April of any twelve-month period;
- (k) 'available reference quantity' means the reference quantity available to producers on 31 March of the twelve-month period for which the levy is calculated, taking account of all transfers, sales, conversions and temporary re-allocations provided for in this Regulation which have taken place during that twelve-month period.

CHAPTER 2

ALLOCATION OF REFERENCE QUANTITIES

*Article 6***Individual reference quantities**

1. Before 1 June 2004 the Member States shall establish the producers' individual reference quantities on the basis of the individual reference quantity or quantities allocated in accordance with Article 4 of Regulation (EEC) No 3950/92 during the twelve-month period beginning on 1 April 2003.

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For Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia the basis for the individual reference quantities referred to is set out in table (f) of Annex I.

In the case of Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia the twelve month period for the establishment of the individual reference quantities shall commence on: 1 April 2001 for Hungary, 1 April 2002 for Malta and Lithuania, 1 April 2003 for the Czech Republic, Cyprus, Estonia, Latvia and Slovakia, 1 April 2004 for Poland and Slovenia and 1 April 2006 for Bulgaria and Romania.

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However, in order to apply Article 95 of Regulation (EC) No 1782/2003 ⁽¹⁾, where the case may be, Poland and Slovenia may establish provisional individual reference quantities based on the twelve month period which commences on 1 April 2003 and they shall establish definitive individual reference quantities by 1 April 2005. Until 1 April 2005 Articles 3 and 4 of this Regulation are not applicable in Poland and Slovenia.

For Poland the distribution of the total quantity between deliveries and direct sales shall be reviewed on the basis of its actual 2003 figures on deliveries and direct sales and, if necessary, adjusted by the Commission in accordance with the procedure referred to in Article 23(2) of Regulation (EC) No 1788/2003.

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For Bulgaria and Romania the distribution of the total quantity between deliveries and direct sales as set out in table (f) of Annex I shall be reviewed on the basis of its actual 2006 figures on deliveries and direct sales and, if necessary, adjusted by the Commission in accordance with the procedure referred to in Article 23(2).

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2. Producers may have either one or two individual reference quantities, one for deliveries and the other for sales. A producer's quantities may be converted from one reference quantity to the other only by the competent authority of the Member State, at the duly justified request of the producer.

⁽¹⁾ OJ L 270, 21.10.2003, p. 1.

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3. Where a producer has two reference quantities, his contribution to any levy due shall be calculated separately for each one.

4. The part of the Finnish national reference quantity allocated to the deliveries referred to in Article 1 may be increased in accordance with the procedure laid down in Article 23(2) to compensate Finnish SLOM producers up to 200 000 tonnes. This reserve, to be allocated in accordance with Community legislation, must be used exclusively on behalf of producers whose right to take up production again has been affected as a result of accession.

5. Individual reference quantities shall be modified, where appropriate, for each of the twelve-month periods concerned, so that, for each Member State, the sum of the individual reference quantities for the deliveries and that for the direct sales does not exceed the corresponding part of the national reference quantity adapted in accordance with Article 8, taking account of any reductions made for allocation to the national reserve as provided for in Article 14.

*Article 7***Allocation of quantities from the national reserve**

The Member States shall adopt rules allowing for allocation to producers of all or part of the quantities from the national reserve provided for in Article 14 on the basis of objective criteria to be notified to the Commission.

CHAPTER 3

CALCULATION OF THE LEVY*Article 8***Management of reference quantities**

1. In accordance with the procedure provided for in Article 23(2), the Commission shall adapt, for each Member State and for each period, before the end of that period, the division between 'deliveries' and 'direct sales' of national reference quantities, in the light of the conversions requested by producers, between individual reference quantities for deliveries and for sales.

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For the 2005/2006 period, in accordance with the same procedure, and for the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Poland, Slovenia and Slovakia, the Commission may also adapt the division between 'deliveries' and 'direct sales' of the national reference quantities after the end of that period at the request of the Member State concerned. This request shall be submitted to the Commission before 10 October 2006. The Commission shall subsequently adapt the division as soon as possible.

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2. Member States shall each year forward to the Commission, by dates and according to rules to be fixed in accordance with the procedure provided for in Article 23(2), the information necessary to:

- (a) make the adaptation referred to in paragraph 1;
- (b) calculate the levy to be paid by them.

▼B*Article 9***Fat content**

1. Each producer shall be assigned a reference fat content, to be applied to the individual reference quantity or quantities allocated to that producer.
2. For the reference quantities allocated to producers on 31 March 2004 in accordance with Article 6(1), the content referred to in paragraph 1 of this Article shall be the same as the reference fat content of that quantity at that date.

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For Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Poland, Romania, Slovenia and Slovakia, the reference fat content referred to in paragraph 1 shall be the same as the reference fat content of the quantities allocated to producers on the following dates: 31 March 2002 for Hungary, 31 March 2003 for Lithuania, 31 March 2004 for the Czech Republic, Cyprus, Estonia, Latvia and Slovakia, 31 March 2005 for Poland and Slovenia and 31 March 2007 for Bulgaria and Romania.

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3. That content shall be altered during the conversion referred to in Article 6(2) and where reference quantities are acquired or transferred, under the rules to be laid down in accordance with the procedure referred to in Article 23(2).
4. For new producers having an individual reference quantity for the total deliveries from the national reserve, the fat content shall be fixed in accordance with the rules referred to in Article 23(2).
5. The individual reference fat content referred to in paragraph 1 shall be adjusted, where appropriate, upon the entry into force of this Regulation and thereafter, at the beginning of each twelve-month period as necessary, so that, for each Member State, the weighted average of the individual representative fat contents does not exceed by more than 0,1 gram per kg the reference fat content set in Annex II.

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For Romania the reference fat content set in Annex II shall be reviewed on the basis of the figures for the full year 2004 and, if necessary, adjusted by the Commission in accordance with the procedure referred to in Article 23(2).

▼B*Article 10***Levy on deliveries**

1. In order to draw up the definitive levy statement, the quantities delivered by each producer shall be increased or reduced to reflect any difference between the real fat content and the reference fat content, using coefficients and on terms to be laid down in accordance with Article 23(2).
2. Where, at national level, the sum of deliveries adjusted in accordance with paragraph 1 is less than the deliveries actually made, the levy shall be calculated on the basis of the latter. In such cases, each downward adjustment shall be proportionately reduced so as to bring the sum of adjusted deliveries into line with the deliveries actually made.

Where the sum of the deliveries adjusted in accordance with paragraph 1 is greater than the deliveries actually made, the levy shall be calculated on the basis of the former.

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3. Each producer's contribution to payment of the levy shall be established by decision of the Member State, after any unused part of the national reference quantity allocated to deliveries has or has not been re-allocated, in proportion to the individual reference quantities of each producer or according to objective criteria to be set by the Member States:

- (a) either at national level on the basis of the amount by which each producer's reference quantity has been exceeded,
- (b) or firstly at the level of the purchaser and thereafter at national level where appropriate.

*Article 11***Role of purchasers**

1. Purchasers shall be responsible for collecting from producers contributions due from the latter by virtue of the levy and shall pay to the competent body of the Member State, before a date and following a procedure to be laid down in accordance with Article 23(2), the amount of these contributions deducted from the price of the milk paid to the producers responsible for the overrun or, failing this, collected by any other appropriate means.

2. Where a purchaser fully or partially replaces one or more other purchasers, the individual reference quantities available to the producers shall be taken into account for the remainder of the twelve-month period in progress, after deduction of quantities already delivered and account being taken of their fat content. The same provisions shall apply where a producer transfers from one purchaser to another.

3. Where, during the reference period, quantities delivered by a producer exceed that producer's available reference quantity, the relevant Member State may decide that the purchaser shall deduct part of the price of the milk in any delivery by the producer concerned in excess of the reference quantity, by way of an advance on the producer's contribution, in accordance with detailed rules laid down by the Member State. The Member State may make specific arrangements to enable purchasers to deduct this advance where producers deliver to several purchasers.

*Article 12***Levy on direct sales**

1. In the case of direct sales, each producer's contribution to payment of the levy shall be established by decision of the Member State, after any unused part of the national reference quantity allocated to direct sales has or has not been re-allocated, at the appropriate territorial level or at national level.

2. Member States shall establish the basis of calculation of the producer's contribution to the levy due on the total quantity of milk sold, transferred or used to manufacture the milk products sold or transferred by applying criteria fixed in accordance with the procedure laid down in Article 23(2).

3. No correction linked to fat content shall be taken into account for the purpose of drawing up the definitive levy statement.

4. How and when the levy must be paid to the Member State's competent body shall be determined in accordance with the procedure laid down in Article 23(2).



CHAPTER 4

ADMINISTERING THE LEVY*Article 13***Amounts paid in excess or unpaid**

1. Where, in the case of deliveries or direct sales, the levy is found to be payable and the contribution collected from producers is greater than that levy, the Member State may:
 - (a) use partially or totally the excess to finance the measures referred to in Article 18(1)(a), and/or
 - (b) redistribute it partially or totally to producers who fall within priority categories established by the Member State on the basis of objective criteria and within the period to be laid down in accordance with the procedure laid down in Article 23(2) or who are affected by an exceptional situation resulting from a national rule unconnected with the present scheme.
2. Where it is established that no levy is payable, any advances collected by purchasers or the Member State shall be reimbursed no later than the end of the following twelve-month period.
3. Where a purchaser does not meet the obligation to collect the producers' contribution to the levy in accordance with Article 11, the Member State may collect unpaid amounts directly from the producer, without prejudice to any penalties it may impose upon the defaulting purchaser.
4. Where a producer or a purchaser fails to comply with the time limit for payment, interest on arrears to be fixed in accordance with the procedure laid down in Article 23(2) shall be paid to the Member State.

*Article 14***National reserve**

1. Each Member State shall set up a national reserve as part of the quantities fixed in Annex I, in particular with a view to making the allocations provided for in Article 7. The national reserve shall be replenished, as appropriate, by taking back some quantities as provided for in Article 15, retaining part of transfers as provided for in Article 19, or by making an across-the-board reduction in all individual reference quantities. The quantities in question shall retain their original purpose, i.e. deliveries or direct sales.
2. Any additional reference quantity allocated to a Member State shall automatically be placed in the national reserve and divided into deliveries and direct sales according to foreseeable needs.
3. The quantities placed in the national reserve shall not have a reference fat content.

*Article 15***Cases of inactivity**

1. When a natural or legal person holding individual reference quantities no longer meets the conditions referred to in Article 5(c) during a twelve-month period, these quantities shall revert to the national reserve no later than 1 April of the following calendar year, except where he once again becomes a producer as defined in Article 5(c) no later than that date.

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Where the person or entity concerned once again becomes a producer no later than the end of the second twelve-month period following withdrawal, all or part of the individual reference quantity which had been withdrawn from that person or entity shall revert to him or it no later than 1 April following the date of application.

2. Where producers do not market a quantity equal to at least 70 % of their individual reference quantity during at least one twelve-month period, Member States may decide whether and on what conditions all or part of the unused reference quantity shall revert to the national reserve.

Member States may determine on what conditions a reference quantity shall be re-allocated to the producer concerned should he resume marketing.

3. However, paragraphs 1 and 2 shall not apply in cases of force majeure and in duly justified cases temporarily affecting the production capacity of the producers concerned and recognised by the competent authority.

*Article 16***Temporary transfers**

1. By the end of each twelve-month period, Member States shall authorise, for the period concerned, any temporary transfers of part of individual reference quantities which the producers who are entitled thereto do not intend to use.

Member States may regulate transfer operations according to the categories of producers or milk production structures concerned, may limit them to the level of the purchaser or within regions, authorise complete transfers in the cases provided for in Article 15(3) and determine to what extent the transferor can repeat transfer operations.

2. Any Member State may decide not to implement paragraph 1 on the basis of one or both of the following criteria:

- (a) the need to facilitate structural changes and adjustments,
- (b) overriding administrative needs.

*Article 17***Transfers of reference quantities together with land**

1. The individual reference quantities shall be transferred with the holding to the producers taking it over when it is sold, leased, transferred by actual or anticipated inheritance or any other means involving comparable legal effects for the producers, 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. The part of the reference quantity which, where applicable, has not been transferred with the holding shall be added to the national reserve.

2. Where reference quantities have been or are transferred in accordance with paragraph 1 by means of rural leases or by other means involving comparable legal effects, Member States may decide, on the basis of objective criteria and with the aim of ensuring that reference quantities are solely attributed to producers, that the reference quantity shall not be transferred with the holding.

3. Where land is transferred to the public authorities and/or for use in the public interest, or where the transfer is carried out for non-agricultural purposes, Member States shall ensure that the necessary measures are taken to protect the legitimate interests of the parties,

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and in particular that producers giving up such land are in a position to continue milk production if they so wish.

4. Where there is no agreement between the parties, in the case of tenancies due to expire without any possibility of renewal on similar terms, or in situations involving comparable legal effects, the individual reference quantities in question shall be transferred in whole or in part to the producer taking them over, in accordance with provisions adopted or to be adopted by the Member States, taking account of the legitimate interests of the parties.

*Article 18***Special transfer measures**

1. With a view to successfully restructuring milk production or improving the environment, Member States may, in accordance with detailed rules which they shall lay down taking account of the legitimate interests of the parties concerned:

- (a) grant compensation in one or more annual instalments to producers who undertake to abandon permanently all or part of their milk production and place the individual reference quantities thus released in the national reserve;
- (b) determine on the basis of objective criteria the conditions on which producers may obtain, in return for payment, at the beginning of a twelve-month period, the re-allocation by the competent authority or a body designated by that authority of individual reference quantities released definitively at the end of the preceding twelve-month period by other producers in return for compensation in one or more annual instalments equal to the abovementioned payment;
- (c) centralise and supervise transfers of reference quantities without land;
- (d) provide, in the case of land transferred with a view to improving the environment, for the individual reference quantity concerned to be allocated to a producer giving up the land but wishing to continue milk production;
- (e) determine, on the basis of objective criteria, the regions or collection areas within which the permanent transfer of reference quantities without transfer of the corresponding land is authorised, with the aim of improving the structure of milk production;
- (f) authorise, upon application by a producer to the competent authority or a 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.

2. The provisions of paragraph 1 may be implemented at national level, at the appropriate territorial level or in specified collection areas.

*Article 19***Retaining part of transfers**

1. In the case of transfers as referred to in Articles 17 and 18 Member States may, on the basis of objective criteria, retain part of the individual reference quantity for their national reserve.

2. Where reference quantities have been or are transferred in accordance with Articles 17 and 18 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

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criteria and with the aim of ensuring that reference quantities are solely attributed to producers, whether and under which conditions all or part of the transferred reference quantity shall revert to the national reserve.

*Article 20***Aid for the acquisition of reference quantities**

No financial assistance linked directly to the acquisition of quotas may be granted by any public authority for the sale, transfer or allocation of reference quantities under this Regulation.

*Article 21***Approval**

Purchaser status shall be subject to prior approval by the Member State in accordance with criteria to be laid down in accordance with Article 23(2).

Conditions to be fulfilled and information to be provided by producers in the case of direct sales shall be fixed in accordance with the procedure in Article 23(2).

CHAPTER 5

TRANSITIONAL AND FINAL PROVISIONS*Article 22***Application of the levy**

The levy shall be considered as intervention to stabilise agricultural markets and shall be applied to financing expenditure in the milk sector.

*Article 23***Management Committee**

1. The Commission shall be assisted by the Management Committee for Milk and Milk Products set up by Article 41 of Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products⁽¹⁾, hereinafter referred to as 'Committee'.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be one month.

3. The Committee shall adopt its Rules of Procedure.

*Article 24***Implementation measures**

The measures necessary for implementation of this Regulation shall be adopted in accordance with the procedure laid down in Article 23(2).

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.



Article 25

Repeal

Regulation (EEC) No 3950/92 is hereby repealed as from 1 April 2004.

References to the repealed Regulation shall be construed as references to this Regulation and should be read in accordance with the correlation table in Annex III.

Article 26

Transitional measures

Any transitional measures necessary to facilitate the implementation of the changes to the scheme provided for in this Regulation shall be adopted in accordance with the procedure laid down in Article 23(2).

Article 27

Entry into force

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

It shall apply from 1 April 2004, with the exception of Articles 6 and 24, which shall apply from the date of entry into force of this Regulation.

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

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ANNEX I

REFERENCE QUANTITIES

▼ A1

(a) Period 2004/2005

For the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia the national reference quantities referred to in Article 1(1) are applicable from 1 May 2004 to 31 March 2005.

Member State	Quantities, tonnes
Belgium	3 310 431,000
Czech Republic	2 682 143,000
Denmark	4 455 348,000
Germany	27 864 816,000
Estonia	624 483,000
Greece	820 513,000
Spain	6 116 950,000
France	24 235 798,000
Ireland	5 395 764,000
Italy	10 530 060,000
Cyprus	145 200,000
Latvia	695 395,000
Lithuania	1 646 939,000
Luxembourg	269 049,000
Hungary	1 947 280,000
Malta	48 698,000
Netherlands	11 074 692,000
Austria	2 749 401,000
Poland	8 964 017,000
Portugal	1 870 461,000
Slovenia	560 424,000
Slovakia	1 013 316,000
Finland	2 407 003,324
Sweden	3 303 000,000
United Kingdom	14 609 747,000

▼ A1

(b) Period 2005/2006

Member State	Quantities, tonnes
Belgium	3 310 431,000
Czech Republic	2 682 143,000
Denmark	4 455 348,000
Germany	27 864 816,000
Estonia	624 483,000
Greece	820 513,000
Spain	6 116 950,000
France	24 235 798,000
Ireland	5 395 764,000
Italy	10 530 060,000
Cyprus	145 200,000
Latvia	695 395,000
Lithuania	1 646 939,000
Luxembourg	269 049,000
Hungary	1 947 280,000
Malta	48 698,000
Netherlands	11 074 692,000
Austria	2 749 401,000
Poland	8 964 017,000
Portugal (*)	1 920 461,000
Slovenia	560 424,000
Slovakia	1 013 316,000
Finland	2 407 003,324
Sweden	3 303 000,000
United Kingdom	14 609 747,000

(*) Special increase of 50 000 tonnes for exclusive allocation to producers in the Azores.

▼ A1

(c) Period 2006/2007

Member State	Quantities, tonnes
Belgium	3 326 983,000
Czech Republic	2 682 143,000
Denmark	4 477 624,000
Germany	28 004 140,000
Estonia	624 483,000
Greece	820 513,000
Spain	6 116 950,000
France	24 356 977,000
Ireland	5 395 764,000
Italy	10 530 060,000
Cyprus	145 200,000
Latvia	695 395,000
Lithuania	1 646 939,000
Luxembourg	270 394,000
Hungary	1 947 280,000
Malta	48 698,000
Netherlands	11 130 066,000
Austria	2 763 148,000
Poland	8 964 017,000
Portugal	1 929 824,000
Slovenia	560 424,000
Slovakia	1 013 316,000
Finland	2 419 025,324
Sweden	3 319 515,000
United Kingdom	14 682 697,000

▼ A2

(d) Period 2007/2008

Member State	Quantities, tonnes
Belgium	3 343 535,000
Bulgaria	979 000,000

▼ A2

Member State	Quantities, tonnes
Czech Republic	2 682 143,000
Denmark	4 499 900,000
Germany	28 143 464,000
Estonia	624 483,000
Greece	820 513,000
Spain	6 116 950,000
France	24 478 156,000
Ireland	5 395 764,000
Italy	10 530 060,000
Cyprus	145 200,000
Latvia	695 395,000
Lithuania	1 646 939,000
Luxembourg	271 739,000
Hungary	1 947 280,000
Malta	48 698,000
Netherlands	11 185 440,000
Austria	2 776 895,000
Poland	8 964 017,000
Portugal	1 939 187,000
Romania	3 057 000,000
Slovenia	560 424,000
Slovakia	1 013 316,000
Finland	2 431 047,324
Sweden	3 336 030,000
United Kingdom	14 755 647,000

(e) Period 2008/2009 to 2014/2015

Member State	Quantities, tonnes
Belgium	3 360 087,000
Bulgaria	979 000,000
Czech Republic	2 682 143,000

▼ A2

Member State	Quantities, tonnes
Denmark	4 522 176,000
Germany	28 282 788,000
Estonia	624 483,000
Greece	820 513,000
Spain	6 116 950,000
France	24 599 335,000
Ireland	5 395 764,000
Italy	10 530 060,000
Cyprus	145 200,000
Latvia	695 395,000
Lithuania	1 646 939,000
Luxembourg	273 084,000
Hungary	1 947 280,000
Malta	48 698,000
Netherlands	11 240 814,000
Austria	2 790 642,000
Poland	8 964 017,000
Portugal	1 948 550,000
Romania	3 057 000,000
Slovenia	560 424,000
Slovakia	1 013 316,000
Finland	2 443 069,324
Sweden	3 352 545,000
United Kingdom	14 828 597,000

(f) Reference quantities for deliveries and direct sales referred to in the second subparagraph of Article 6(1)

Member State	Reference quantities for deliveries, tonnes	Reference quantities for direct sales, tonnes
Bulgaria	722 000	257 000
Czech Republic	2 613 239	68 904
Estonia	537 188	87 365
Cyprus	141 337	3 863
Latvia	468 943	226 452

▼ A2

Member State	Reference quantities for deliveries, tonnes	Reference quantities for direct sales, tonnes
Lithuania	1 256 440	390 499
Hungary	1 782 650	164 630
Malta	48 698	—
Poland	8 500 000	464 017
Romania	1 093 000	1 964 000
Slovenia	467 063	93 361
Slovakia	990 810	22 506

(g) Special restructuring reserve quantities referred to in Article 1(4)

Member State	Special restructuring reserve quantities, tonnes
Bulgaria	39 180
Czech Republic	55 788
Estonia	21 885
Latvia	33 253
Lithuania	57 900
Hungary	42 780
Poland	416 126
Romania	188 400
Slovenia	16 214
Slovakia	27 472

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ANNEX II

▼ A2

REFERENCE FAT CONTENT

Member State	Reference fat content (g/kg)
Belgium	36,91
Bulgaria	39,10
Czech Republic	42,10
Denmark	43,68
Germany	40,11
Estonia	43,10
Greece	36,10
Spain	36,37
France	39,48
Ireland	35,81
Italy	36,88
Cyprus	34,60
Latvia	40,70
Lithuania	39,90
Luxembourg	39,17
Hungary	38,50
Netherlands	42,36
Austria	40,30
Poland	39,00
Portugal	37,30
Romania	► <u>M3</u> 38,5 ◀
Slovenia	41,30
Slovakia	37,10
Finland	43,40
Sweden	43,40
United Kingdom	39,70



ANNEX III

CORRELATION TABLE

Present Regulation		Regulation (EEC) 3950/92
Article 1	(1)	Article 1, first subparagraph
	(2)	—
	(3)	Article 3(2)
Article 2		Article 1, second subparagraph
Article 3		—
Article 4		Article 2(1), first subparagraph
Article 5		Article 9
Article 6	(1), (2) and (3)	—
	(4)	Article 3(2)
	(5)	Article 4(2)
Article 7		—
Article 8		—
Article 9		—
Article 10	(1) and (2)	—
	(3)	Article 2(1), second subparagraph
Article 11	(1)	Article 2(2), first subparagraph
	(2)	Article 2(2), second subparagraph
	(3)	Article 2(2), third subparagraph
Article 12	(1)	Article 2(1)
	(2) and (3)	—
	(4)	Article 2(3)
Article 13	(1)	Article 2(4)
	(2), (3), (4)	—
Article 14	(1)	Article 5, first subparagraph
	(2) and (3)	—
Article 15		Article 5, second and third subparagraphs
Article 16		Article 6
Article 17	(1)	Article 7(1)
	(2)	Art 8a (b)
	(3) and (4)	Article 7(1), third subparagraph and (3)
Article 18		Article 8
Article 19	(1)	Article 7(1), second subparagraph
	(2)	Article 8a (a)
Article 20		—
Article 21		—
Article 22		Article 10
Article 23	(1)	Article 11, first subparagraph
	(2) and (3)	—
Article 24		Article 11, first subparagraph
Article 25		Article 12

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Present Regulation	Regulation (EEC) 3950/92
Annex I	Annex
Annex II	—
Annex III	—