Council Regulation (EC) No 2217/2004 of 22 December 2004 amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and Regulation (EC) No 1788/2003 establishing a levy in the milk and milk products sector

COUNCIL REGULATION (EC) No 2217/2004

of 22 December 2004

amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and Regulation (EC) No 1788/2003 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 the third subparagraph of Article 37(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament[(1)],

Whereas:

(1) Due to the geographic location of the Kleinwalsertal (Community of Mittelberg) and the Community of Jungholz, which are situated within the Austrian territory and only accessible by road from Germany, the milk of their producers has been delivered to German buyers.

(2) Since Regulation (EEC) No 804/68 of the Council of 27 June 1968 on the common organisation of the market in milk and milk products[(2)], as amended by Regulation (EEC) No 856/84[(3)], has introduced the Community milk quota system, the milk marketed by these producers has been taken into account in the establishment of the German milk reference quantities.

(3) Council Regulation (EC) No 1782/2003[(4)] has introduced direct payment for the dairy sector starting from the calendar year 2004. These payments are based on the individual reference quantities of producers concerned which are administered by Germany whilst, under that Regulation, the payment of the dairy premium should be carried out by the Austrian authorities within the limit of their national reference quantity for the 12-month period of 1999/2000 set out in Annex I to Council Regulation (EEC) No 3950/92 of 28 September 1992 establishing an additional levy in the milk and milk products sector[(5)] and a budgetary ceiling provided for in Article 96(2) of Regulation (EC) No 1782/2003. Both the reference quantity and the ceiling have been calculated for Austria without taking into account the individual reference quantities for the Kleinwalsertal (Community of Mittelberg) and the Community of Jungholz.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 2217/2004. (See end of Document for details)*

(4) Article 47(2) of Regulation (EC) No 1782/2003 provides for the inclusion of dairy payments in the single payment scheme provided for by that Regulation in 2007. However, Article 62 of the same Regulation authorises the Member States to anticipate the inclusion of such payments from 2005. The inclusion of the dairy premium is foreseen in Germany as from 2005, while in Austria it will take place at a later stage.

(5) To permit a practical and correct administration of the dairy premium and its inclusion in the Single Payment Scheme, Regulation (EC) No 1782/2003 should be amended in such a way that, for Germany and Austria, the reference quantities and the budgetary ceiling, referred to in Articles 95(4) and 96(2), take into account the milk reference quantities of the producers of the regions concerned. Consequently, it is also appropriate to modify Annex I to Regulation (EC) No 1788/2003 of 29 September 2003 establishing a levy in the milk and milk products sector in order to convert the reference quantities of producers concerned into Austrian reference quantities as from milk quota year 2004/05.

(6) For the payments due in 2004, taking into account that the date for application has already expired, it is however appropriate to provide for a derogation to Article 2(b) of Regulation (EC) No 1782/2003 allowing Germany to pay the premium to farmers situated in the Austrian Kleinwalsertal (Community of Mittelberg) and the Community of Jungholz,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1782/2003 is hereby amended as follows:

1. In Article 95(4), the following second subparagraph shall be added:

> However, for Germany and Austria the ceiling fixed on the basis of the reference quantities for the 12-month period of 1999/2000, shall be, respectively, 27 863 827,288 and 2 750 389,712 tonnes.

2. Article 96(2) is hereby amended as follows:

(a) the row for Germany shall be replaced by the following:

Germany	101,99	204,52	306,78;

(b) the row for Austria shall be replaced by the following:

Austria	10,06	20,19	30,28.

Article 2

Annex I to Regulation (EC) No 1788/2003 is amended in accordance with the Annex to this Regulation.

***Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (EC) No 2217/2004. (See end of Document for details)*

Article 3

By way of derogation from Article 2(b) of Regulation (EC) No 1782/2003, Germany shall pay the dairy premium and additional payments for 2004 to farmers situated in the Austrian Kleinwalsertal (Community of Mittelberg) and the Community of Jungholz.

Article 4

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

It shall apply as follows:

(a) Article 1 shall apply from 1 January 2005;

(b) Article 2 shall apply from 1 April 2004;

(c) Article 3 shall apply from 1 January 2004.

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

Done at Brussels, 22 December 2004.

For the Council

The President

C. VEERMAN