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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 7.2.2007
COM(2007) 48 final

2007/0021 (CNS)

Proposal for a

COUNCIL REGULATION

**derogating from Regulation (EC) No 2597/97
as regards drinking milk produced in Estonia**

(presented by the Commission)

EXPLANATORY MEMORANDUM

Council Regulation (EC) No 2597/97 lays down common rules for the production and marketing of drinking milk.

Following the consumer habits and different requests of Member States, several of them have been granted derogations from Regulation (EC) No 2597/97, with regard to the fat content of the drinking milk. At present 10 Member States are provided with derogations, all of them valid until 2009 except for Estonia.

Estonia has been granted a derogation from Regulation (EC) No 2597/97 for 2.5 fat % drinking milk until 30 April 2007. The provision derogates from the requirement for whole milk (minimum of 3.5 fat %). Nearly 93% of the drinking milk produced and consumed in Estonia has a fat content of 2.5%. The 2.5% milk can only be marketed in Estonia.

The reason why Estonia received derogation from Regulation (EC) No 2597/97 until 30 April 2007 only and not until 2009 like other Member States was rather political/legal. Applying for derogation similar to the existing derogations in Finland and Sweden was under discussion in Estonia during the accession negotiations but was not considered the first priority, due to the fact that the transition period for Finland and Sweden was supposed to end in 2004. However, it turned out after the end of accession negotiations that Finland and Sweden were granted a further prolongation of the existing derogation until 2009 and that a number of acceding countries had applied for the same transitional period. Therefore, after the accession, Estonia was positioned in the middle of Member States all provided with derogations until 2009.

On that background, in 2004 Estonia asked the Commission to consider the possibility of applying a derogation from Regulation (EC) No 2597/97. Having regard to Article 41 of the Act of Accession, the Commission subsequently adopted Regulation (EC) No 749/2004 in which Estonia was granted a derogation for three years which was a maximum period, in legal terms, for applying transitional measures under Article 41.

Recently, Estonia has again requested the Commission to propose a prolongation of their derogation at least until the end of a similar transitional period given to other countries (30 April 2009).

Taking into account the above-mentioned facts, it would be appropriate to extend the derogation for Estonia until 30 April 2009.

Proposal for a

COUNCIL REGULATION

**derogating from Regulation (EC) No 2597/97
as regards drinking milk produced in Estonia**

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 Parliament¹,

Whereas:

- (1) By way of derogation from Council Regulation (EC) No 2597/97 of 18 December 1997 laying down additional rules on the common organization of the market in milk and milk products for drinking milk², Commission Regulation (EC) No 749/2004 of 22 April 2004 laying down transitional measures as regards drinking milk produced in Estonia³ provides for the possibility for drinking milk produced in Estonia with a fat content of 2.5% to be delivered and sold in Estonia. That derogation expires on 30 April 2007.
- (2) In view of Estonian consumer habits and of the difficulties of adapting to Community rules and taking into account that similar derogations in several other Member States will expire on 30 April 2009, it is appropriate to extend the derogation allowing the delivery and sale in Estonia of drinking milk produced in Estonia with a fat content of 2.5%,

HAS ADOPTED THIS REGULATION:

Article 1

By way of derogation from Article 3(1)(b) of Regulation (EC) No 2597/97, drinking milk produced in Estonia with a fat content of 2,5% may be delivered or sold in Estonia in accordance with Article 2(1) of that Regulation.

¹ OJ C ..., ..., p.

² OJ L 351, 23.12.1997, p. 13. Regulation as amended by Regulation (EC) No 1602/1999 (OJ L 189, 22.7.1999, p. 43).

³ OJ L 118, 23.4.2004, p. 5.

Article 2

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

It shall apply until 30 April 2009.

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

Done at Brussels,

For the Council
The President

FINANCIAL STATEMENT

FINANCIAL STATEMENT				
1.	BUDGET HEADING: 05 02 12	APPROPRIATIONS (AL/PDB 2007): EUR 587.000.000		
2.	TITLE: Council Regulation derogating from Council Regulation (EC) No 2597/97 as regards drinking milk produced in Estonia			
3.	LEGAL BASIS: Art. 37 of the Treaty			
4.	AIMS: Prolongation until 30 April 2009 of the actual derogation to produce and market drinking milk with 2,5% fat content instead of minimum 3,5% as whole milk.			
5.	FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR 2007 (EUR million)	FOLLOWING FINANCIAL YEAR 2008 (EUR million)
5.0	EXPENDITURE – CHARGED TO THE EC BUDGET (REFUNDS / INTERVENTIONS) – NATIONAL AUTHORITIES – OTHER	p.m.	p.m.	p.m.
5.1	REVENUE – OWN RESOURCES OF THE EC (LEVIES / CUSTOMS DUTIES) – NATIONAL	–	–	–
		2009	2010	2011
5.0.1	ESTIMATED EXPENDITURE	p.m.	p.m.	p.m.
5.1.1	ESTIMATED REVENUE	–	–	–
5.2	METHOD OF CALCULATION: –			
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?			YES NO
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?			YES NO
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?			YES NO
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?			YES -NO
OBSERVATIONS: The proposal is a prolongation of the existing regulation, and therefore does not have budgetary impacts compared to prior years. Nonetheless had the derogation not been extended, and the normal drinking standards had to be applied in full, it would have had an impact on the type of milk that would be marketed in Estonia, and thereby the quantity of dairy fat used in drinking milk. If this would have resulted in a decrease of the average fat content it could lead to a minor increase of butter production. Taking into account that the total annual drinking milk consumption in Estonia is in the order of 75 to 80 000 t this effect would have been very limited – max. a few hundred tonnes of butter.				