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REGULATION (EEC) No 685/69 OF THE COMMISSION

of 14 April 1969

on detailed rules of application for intervention on the market in butter and cream

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 804/68[1] of 27 June 1968 on the common organisation of the market in milk and milk products, and in particular Articles 6 (7), 28 and 35 thereof;

Whereas, in addition to Council Regulation (EEC) No 985/68[2] of 15 July 1968, laying down general rules governing measures of intervention on the market in butter and cream, Commission Regulation (EEC) No 1101/68[3] of 27 July 1968, as last amended by Regulation (EEC) No 1574/68,[4] laid down detailed rules of application for intervention on the market in butter and cream for the 1968/69 marketing year and in particular the procedure for buying-in by the intervention agencies, for disposal by tender and for the grant of private storage aid;

Whereas the rules laid down in these instruments, in general, proved satisfactory; whereas it is therefore appropriate to continue them with the exception of certain transitional provisions which in particular concern the characteristics of the butter which may be bought in by intervention agencies; whereas the definitive rules regarding those characteristics must ensure in particular that butter is kept in good condition during storage; whereas detailed arrangements may largely be based on the Community provisions in force before 28 July 1968;

Whereas, for the disposal of products bought in by intervention agencies, Commission Regulation (EEC) No 217/69[5] of 4 February 1969 on invitations to tender for the disposal of butter held by intervention agencies, as amended by Regulation (EEC) No 506/69,[6] and Commission Regulation (EEC) No 371/69[7] of 27 February 1969 on invitations to tender for the sale to industry of butter held by intervention agencies, lay down rules additional to the provisions of Regulation (EEC) No 1101/68; whereas it would now seem opportune to incorporate those rules in this Regulation;

Whereas, with a view to the proper functioning of the market organisation, it should moreover be provided that the grant of private storage aid in respect of butter and cream may be made for a minimum storage period only;

Whereas the Commission has proposed that the Council should reduce the intervention price of butter; whereas it as advisable now to provide for an increase, in such eventuality, in the amount of storage aid in order to compensate for such reduction;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committee for Milk and Milk Products;

HAS ADOPTED THIS REGULATION:

TITLE I

Buying-in by intervention agencies

Article 1

The provisions of this Title shall apply only until the date of application of the provisions adopted pursuant to Article 27 of Regulation (EEC) No 804/68.

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[1] OJ No L 148, 28.6.1968, p. 13.
[2] OJ No L 169, 18.7.1968, p. 1.
[3] OJ No L 184, 29.7.1968, p. 16.
[4] OJ No L 247, 10.10.1968, p. 9.
OJ No L 28, 5.2.1969, p. 14.
[6] OJ No L 69, 20.3.1969, p. 12.
[7] OJ No L 50, 28.2.1969, p. 30.

Article 2

The intervention agencies shall buy-in butter offered to them only if:

1. the quality has been checked from a sample taken;

2. the butter satisfies the requirements as to:

   (a) keeping quality specified in Article 3,

   (b) age specified in Article 4,

   (c) quantity and packaging specified in Article 5.

Article 3

The butter shall have been made:

(a) from pasteurised sour cream in dairies which have technically suitable equipment; and

(b) under conditions which ensure the manufacture of butter of good keeping quality.

Article 4

1. The butter shall have been made during the fourteen days preceding the day on which the intervention agency takes it over. Member States may, however, reduce that period.

2. Notwithstanding the provisions of paragraph 1, Member States may provide that their intervention agencies shall buy-in butter made during a period of two months preceding the day on which those agencies take it over.

In that case the butter may de bought-in only if, within the time limit corresponding to the period referred to in paragraph 1, which applies in the Member State concerned, calculated from the day on which the butter was made, the following measures have been taken:

(a) the butter has been approved following a quality check made by an agency appointed for that purpose by the Member State;

(b) a sample has been taken;

(c) the identity of the packages has been established;

(d) the butter has been placed in a cold storage depot which reaches the standards referred to in Article 7.

3. Member States may limit the buying-in by their intervention agencies to one or other of the categories of butter mentioned in paragraphs 1 and 2.

Article 5

1. The minimum quantity bought-in shall be 1 metric ton. Member States may increase this quantity up to 10 metric tons. They may provide that butter is to be bought-in by the complete ton only.

2. The butter shall be made up in blocks of at least 25 kilogrammes net.

3. The packaging shall be new, of strong material, and so designed as to ensure protection of the butter throughout transportation, storage and marketing.

4. The packaging shall be marked with at least the following:

(a) the identification number of the factory,

(b) the date of manufacture,

(c) the date of entry into store,

(d) the delivery number and package number.

Article 6

1. The butter shall be put through a storage test period. This period shall be fixed at two months starting from the day of taking over or, in cases covered by Article 4 (2), from the day of entry into the cold storage depot referred to in Article 4 (2) (d).

2. Where, during the storage test period, the deterioration in the quality of the butter is greater than is normal for stored butter meeting the requirements mentioned in Article 2, the contract shall be cancelled in respect of the defective quantity. In that case the vendor shall take over the butter and refund to the intervention agency the cost of storing it calculated per metric ton as follows:

(a) 8 units of account for fixed costs;

(b) 0·525 units of account per day of storage for costs related to the duration of storage. The number of days shall be reckoned from the day of entry into store until the day of removal.

3. The intervention agency may allow the vendor to avoid cancellation of the contract by the replacement, at vendor's expense, of the defective quantity by an equal quantity of butter produced in the Community and meeting the standards mentioned in Regulation (EEC) No 985/68 and in Article 2 of this Regulation.

In that case the vendor shall take over that quantity and shall refund to the intervention agency the costs is has incurred in making the replacement. Such costs shall be fixed by Member States.

Article 7

1. The cold storage depot referred to in Article 3 (1) of Regulation (EEC) No 985/68 shall comply with a number of technical standards ensuring good preservation of the butter.

2. These standards shall be adopted by the Member State and communicated to the Commission.

3. The list of cold storage depots referred to in Article 4 of Regulation (EEC) No 985/68 shall not be drawn up.

Article 8

1. The maximum distance referred to in Article 3 (2) of Regulation (EEC) No 985/68 shall be 100 kilometres.

2. The additional transport charges referred to in Article 3 (3) of Regulation (EEC) No 985/68 shall be 0·026 units of account per metric ton and per kilometre.

TITLE II

Disposal of the butter bought in by intervention agencies

Article 9

When a decision is taken that disposal shall be by invitation to tender, each intervention agency shall be responsible for such invitations in respect of the quantities of butter which it holds.

Article 10

1. The intervention agency shall prepare an invitation to tender stating:

(a) the weight of each lot offered for sale;

(b) the numbers of the lots;

(c) age, origin and, where appropriate, information as to quality;

(d) the location of the stored lots;

(e) the closing date and address for the submission of tenders.

2. For the purposes of this Regulation, 'lot' means a quantity of butter made up for sale by tender.

Article 11

1. Invitations to tender shall be published in the *Official Journal of the European Communities*. In addition, the intervention agencies may announce the invitation by other means.

2. Publication in the *Official Journal of the European Communities* shall take place at least eight days before the closing date for tenders.

Article 12

Intervention agencies shall take the necessary measures to enable those concerned to examine samples of the butter offered, before tendering.

Article 13

1. Tenders shall be submitted to the intervention agency in writing against receipt or by registered letter, telex or telegram addressed to the intervention agency.

2. The tender shall specify:

(a) the name and address of the tenderer;

(b) the number of the lot in question;

(c) the price offered per metric ton, excluding tax, ex-cold storage depot where the butter is stored, expressed in the currency of the Member State in which the tendering procedure takes place;

(d) any additional information required by the invitation to tender.

3. A tender may not be made for part of a lot. A tender for several lots shall be considered as comprising as many tenders as lots.

4. A tender shall not be valid unless accompanied by:

(a) a tendering deposit,

(b) a statement in which the tenderer agrees to forgo any claim as to the quality or characteristics of the butter which may be sold.

Article 14

1. The tendering deposit shall be 30 units of account per metric ton.

2. At the choice of the interested party, it shall be paid either by a cheque made out to the intervention

agency or in the form of a guarantee meeting the criteria laid down by the Member State concerned.

Article 15

1. In the light of the tenders received, and in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68, a minimum selling price shall be fixed for each category of butter or it shall be decided to cancel the invitation to tender.

2. For the purposes of this Article, 'category of butter' means one or more uniform lots of butter.

Article 16

1. If the tender is for less than the minimum price fixed for the category in question it shall be refused.

2. Without prejudice to the provisions of paragraph 1, the contract for a given lot shall be awarded to the highest tender. Where several tenders are made at the same price, the intervention agency shall:

(a) divide the lot, in agreement with the tenderers concerned; or

(b) award the lot by balloting.

3. The rights and obligations deriving from the tendering procedure shall not be transferable.

Article 17

1. Each tenderer shall be informed immediately by the intervention agency of the decision on his tender.

2. Within eight days of receipt of that information, the successful tenderer shall pay to the intervention agency the sum corresponding to his tender or to that part of it which has been accepted.

Article 18

1. Where butter put up for tender is intended for direct consumption in the Community, without first being blended with other butter or processed:

(a) it shall be used exclusively for that purpose,

(b) it shall be marketed in packets of a maximum weight of 500 grammes in packaging on which one or more of the following is clearly legible:

'Beurre d'intervention',

'Butter aus den Beständen der Einfuhr- und Vorratsstelle',

'Burro d'ammasso',

'Boter afkomstig uit interventievoorraden'.

(Intervention butter).

2. Where proof has been furnished that the butter has been packaged in accordance with paragraph 1 (b), the Member State in which the packaging took place shall issue a certificate to that effect.

3. In the cases referred to in paragraph 1, the successful tenderer shall lodge a packaging deposit the amount of which shall be decided case by case. The deposit shall be lodged in the manner laid down in Article 14 (2) and within the time limit laid down in Article 17 (2).

Article 19

1. Where butter put out to tender is intended for processing, the invitation to tender shall provide that:

(a) the butter shall be processed on Community territory within the time limit specified in (b) into products other than those falling within tariff heading No 04.01, 04.02, 04.03 or 04.04, except for processed cheeses;

(b) the processing specified in (a) above shall be carried out within three months of receipt of the information referred to in Article 17 (1).

2. Where the processing is carried out in a Member State (hereinafter called the 'processing Member State') other than the selling Member State, the following rules shall apply:

(a) the exporter shall complete part A of movement certificate DD 4 with one of the following entries:

'destiné à la transformation au titre du règlement (CEE) No 685/69'

'zur Verarbeitung nach Verordnung (EWG) Nr. 685/69'

'destinato alla trasformazione a norma del regolamento (CEE) n. 685/69'

'bestemd voor verwerking volgens Verordening (EEG) nr. 685/69'

(for processing in accordance with Regulation (EEC) No 685/69).

(b) the processing Member State shall place the butter, accompanied by the movement certificate DD 4 thus completed, under customs control or an equivalent administrative control until it is processed.

(c) after the butter in question has been processed, the processing Member State shall issue a certificate stating the quantities processed in accordance with paragraph 1.

3. In the cases referred to in paragraph 1, the successful tenderer shall lodge a processing deposit, the amount of which shall be decided case by case. The deposit shall be lodged in the manner laid down in Article 14 (2) and within the time limit laid down in Article 17 (2).

Article 20

1. When, within the time limit laid down, the sum corresponding to the tender is paid and the packaging or processing deposit as appropriate is lodged, the intervention agency shall issue a release order showing:

(a) the number of the lot covered by the contract,

(b) where it is stored, and

(c) the time limit for taking delivery of the butter.

2. The successful tenderer shall take delivery of the butter within twelve days of receipt of the information referred to in Article 17 (1).

Except in cases of *force majeure,* if the successful tenderer does not comply with that time limit he shall be responsible for storage costs, to be determined by the intervention agency, arising out of the delay. This provision shall not prevent the cancellation of the sale by the intervention agency.

Article 21

1. Except in cases of *force majeure,* the tendering deposit shall be returned only in respect of the quantity:

(a) for which the tenderer has not withdrawn his tender before a decision has been taken on the award of a contract; and

(b) for which the tenderer has, within the time limit laid down, paid the sum corresponding to his tender and the packaging or processing deposit, as appropriate; or

(c) in respect of which the invitation to tender has been cancelled.

2. Except in cases of *force majeure,* the packaging deposit shall be returned only in respect of the quantity of butter for which the certificate mentioned in Article 18 (2) has been supplied.

3. Except in cases of *force majeure,* the processing deposit shall be returned only in respect of the quantity for which proof is furnished that processing has taken place in accordance with Article 19 (1). Where processing is carried out in a Member State other than the selling Member State, the certificate mentioned in Article 19 (2) (c) shall be the proof.

4. The return of the deposit shall take place without delay.

Article 22

In cases of *force majeure,* the intervention agency shall decide on the measures it considers necessary in the light of the circumstances invoked.

TITLE III

Aid for private storage of butter or cream

Article 23

1. The minimum quantity of butter or cream referred to in Article 9 (1) (e) of Regulation (EEC) No 985/68 shall be 1 000 kilogrammes per lot.

2. The measures for supervision of lots under contract, provided for in Article 9 (1) (f) of Regulation (EEC) No 985/68, shall form part of the contract conditions.

3. Until provisions adopted pursuant to Article 27 of Regulation (EEC) No 804/68 are applied, the contract conditions shall provide, in respect of butter, that the packaging shall bear the following information, which may be coded:

(a) identification number of the factory,

(b) date of manufacture,

(c) date of entry into store,

(d) delivery number and package number,

(e) category of butter (sweet cream or sour cream).

Article 24

The private storage aid provided for in Article 6 (2) of Regulation (EEC) No 804/68 shall be calculated per metric ton of butter or butter equivalent as follows:

(a) 8 units of account for fixed costs,

(b) 0·525 units of account per day of storage for costs related to the duration of storage. The number of days shall be reckoned from the day

of entry into store until the day of removal. The amount shall not, however, exceed 94·5 units of account per metric ton,

(c) 55 units of account for deterioration in quality.

Article 25

Where, during the first two months of storage, the deterioration in the quality of the butter is greater than is normal in store, the storers may be authorised to replace the defective quantity, at their own expense, by an equal quantity of butter as specified in Article 8 (4) of Regulation (EEC) No 985/68.

Article 26

1. Aid for private storage may be granted only if the duration of storage is at least four months.

2. However, in the case mentioned in Article 25, in order to determine:

(a) the components of the aid specified in Article 24 (a) and (b), the duration of storage shall be reckoned from the date of entry into store of the butter which has been replaced,

(b) the part of the aid referred to in Article 24 (c), the duration of storage shall be reckoned from the date of entry into store of the replacement butter.

Article 27

Aid for the storage of cream may be granted only for pasteurised cream produced directly from milk. For calculation of the aid the quantities of cream shall be converted into 'butter equivalents' by multiplying the fat content of the cream by 1·25.

Article 28

1. The storage period shall begin on 1 April and end on 30 September of the same year. The period for removal from storage shall begin on 1 November and end on 31 March of the following year.

2. However:

(a) for 1969 the storage period shall begin on 15 April 1969;

(b) the period for removal from storage which began on 7 October 1968 shall end on 31 May 1969.

Article 29

Should the buying-in price for butter decrease between 15 April 1969 and 31 March 1970, the aid specified in Article 24 shall be increased by an amount equal to that decrease, in respect of quantities of butter covered by a contract and taken into store before the date on which the change in the buying-in price became effective.

Article 30

Regulations (EEC) Nos 1101/68, 217/69 and 371/69 are hereby repealed.

Article 31

This Regulation shall enter into force on 15 April 1969. Article 7 (3) shall apply until 28 July 1969.

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

Done at Brussels, 14 April 1969.

For the Commission

The President

Jean REY