COMMISSION REGULATION (EEC) No 749/76

of 31 March 1976

laying down rules for the application of Article 5 of Regulation (EEC) No 563/76 on the compulsory purchase of skimmed-milk powder

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 563/76 of 15 March 1976 on the compulsory purchase of skimmed-milk powder held by intervention agencies for use in feedingstuffs [1], and in particular Article 9 (1) thereof,

Whereas, under Article 5 of Regulation (EEC) No 563/76, in the case of contracts concluded before the date of entry into force of this Regulation, the successive buyers of the products referred to in Articles 2 and 3 of that Regulation, or of protein products processed therefrom, are to meet the obligation arising from the arrangements laid down in that Regulation;

Whereas in the case of disagreement between the two contracting parties this charge comprises the obligation on the one hand, to buy a certain quantity of skimmed-milk powder in order to release the security, and on the other hand, to pay the costs provided for in Articles 2 and 3 of the abovementioned Regulation resulting from the provision of this security;

Whereas, in the case of purchase of skimmed-milk powder by a feedingstuffs' manufacturer, the obligation to be met by purchasers of such feedingstuffs should be determined on the basis of the difference between the price of skimmed-milk powder and its commercial value;

Whereas the necessary measures should be taken in order to ensure that the obligation relates only to operations in respect of products subject to the arrangements laid down in Regulation (EEC) No 563/76 or to protein products resulting from the processing thereof;

Whereas, to that end, it should be laid down that the seller should furnish proof that the products covered by the contract have been subject to the abovementioned arrangements or contain such products;

Whereas the measures provided for in this Regulation are in accordance with the opinions of all the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

The two contracting parties shall determine by agreement the obligation to be met by the purchaser in respect of Article 5 of Regulation (EEC) No 563/76.

In the case of disagreement the provisions of the following Articles shall apply.

Article 2

Under the terms of Article 5 of Regulation (EEC) No 563/76, the purchaser shall be considered to have met the obligation if:

(a) he has paid the seller an amount corresponding to the real costs resulting from the provision of the security, and

(b) he has given the seller:

— in respect of the quantity of skimmed-milk powder corresponding to the amount of the security relating to the quantity of products listed in Articles 2 and 3 of that Regulation which are the subject of the contract, the document referred to in Article 6 of that Regulation, and

— the proof that the product has reached one of the destinations listed in Article 10 (1) (c), (d), (e) and (f) of Regulation (EEC) No 677/76, or

(c) where the seller is a feedingstuffs manufacturer and has bought the skimmed-milk powder pursuant to Regulation (EEC) No 563/76, if he has paid an amount of 83 % of the price of skimmed-milk powder bought with a view to releasing the security relating to the quantity of products listed in Articles 2 and 3 of that Regulation incorporated in feedingstuffs which have been sold.

Article 3

1. The purchasers shall meet the obligation arising from the arrangements laid down in Regulation (EEC) No 563/76 provided the sellers have furnished proof that the products which are the subject of the contract are covered by these arrangements or contain products which are covered by these arrangements.

[1] OJ No L 67, 15. 3. 1976, p. 18.

2. On request by the party concerned, the competent agency of the Member State shall issue on attestation :

— in respect of the products listed in the abovementioned Article 2, that the seller has provided security or presented the document referred to in Article 6 of Regulation (EEC) No 563/76 ;

— in respect of the procedure listed in Article 3 of the abovementioned Regulation, that those products were placed in free circulation as from 19 March 1976.

3. The party concerned may request the issue of several attestations relating to separate quantities making up the total quantity placed in free circulation.

Article 4

This Regulation shall enter into force on 1 April 1976.

However, it shall apply with effect from 19 March 1976 with regard to the consequences of the obligation arising from the application of Article 3 (1) of Regulation (EEC) No 563/76.

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

Done at Brussels, 31 March 1976.

For the Commission

P. J. LARDINOIS

Member of the Commission