COMMISSION REGULATION (EEC) No 2370/77

of 28 October 1977

on the sale at a reduced price of butter for direct consumption in the Community

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 of 27 June 1968 on the common organization of the market in milk and milk products (1), as last amended by Regulation (EEC) No 559/76 (2), and in particular Articles 6 (7), 12 (3) and 28 thereof,

Having regard to Council Regulation (EEC) No 985/68 of 15 July 1968 laying down general rules for intervention on the market in butter and cream (3), as last amended by Regulation (EEC) No 2714/72 (4), and in particular Article 7a thereof,

Whereas a major feature of the Community butter market is the existence of stocks built up following intervention under Article 6 (1) and (2) of Regulation (EEC) No 804/68 ;

Whereas it will not be possible to dispose of these stocks on normal terms during the present milk year ; whereas prolonged storage should be avoided in view of the high cost involved ; whereas steps should therefore be taken to facilitate disposal of this butter ;

Whereas the Christmas and New Year holidays may provide an opportunity for selling butter at a reduced price for direct consumption ; whereas, if this measure were applied only to butter in public storage, it would be difficult to run down the stocks of butter in private storage ; whereas, therefore, the butter which has been the subject of storage contracts under Article 9 (2) of Regulation (EEC) No 985/68 should also be released to the market under this measure ;

Whereas either the reduction in the selling price of butter or the amount of the aid should be sufficient to ensure that additional quantities are disposed of without disturbing normal trade in butter ; whereas, should a Member State make use of Council Regulation (EEC) No 880/77 of 26 April 1977 on the granting of aid for butter consumption (5), the measures laid down in this Regulation should be combined with the aid granted under the abovementioned Regulation ;

Whereas, to ensure even distribution throughout the Community of the butter made available to consumers under this measure and to avoid disturbances of the market in certain Member States, the maximum quantities qualifying for this aid should be fixed for each Member State, particular account being taken of the usual level of consumption in the Member State concerned ; whereas, given its social welfare character, the restricted quantities and the brief period involved, this sale of butter on the occasion of the Christmas and the New Year holidays can only achieve its aim if the butter in question is consumed in the Member State where it is stored and if subsequent distribution to those concerned is handled by the national authorities ;

Whereas in the United Kingdom the market price for butter is appreciably lower than the intervention price less the aid granted under Regulation (EEC) No 880/77 ; whereas there are also large stocks of imported butter which tend to keep prices down ; whereas in these circumstances it is reasonable not to apply the present measure in that Member State, and indeed essential if a disturbance of the market is to be avoided ;

Whereas, with regard to Italy, which has neither public stocks nor private stocks under contract on its territory, and where the special features of production preclude the use of price support mechanisms to prevent price fluctuations, Council Regulation (EEC) No 2291/77 of 18 October 1977 on the granting of aid for butter consumption in Italy (6) provides that aid may be granted for butter produced in Italy and intended for direct consumption in that Member State so that Italian consumers can benefit, on comparable terms, from the reduction in the price of butter ; whereas it is therefore necessary to adopt at the same time detailed rules for the application of the said Regulation (EEC) No 2291/77 ;

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 67, 15. 3. 1976, p. 9.
(3) OJ No L 169, 18. 7. 1968, p. 1.
(4) OJ No L 291, 28. 12. 1972, p. 15.
(5) OJ No L 106, 29. 4. 1977, p. 31.
(6) OJ No L 268, 20. 10. 1977, p. 15.

Whereas butter sold under this Regulation should be clearly distinguished at all marketing stages from other butter; whereas, to this end, provisions should be adopted concerning the putting-up of the butter in small packets; whereas a time limit for packing should be fixed to ensure that the operation proceeds smoothly;

Whereas a system of supervision should be set up to ensure that the butter is not diverted from its destination; whereas the keeping of stock records at all marketing stages, the provision of a security and, in the case of butter from private storage, the condition that aid will be paid only if certain requirements are met, would contribute to this end; whereas, moreover, as regards butter in public storage, the provisions of Commission Regulation (EEC) No 1687/76 of 30 June 1976 laying down common detailed rules for verifying the use and/or destination of products from intervention (1), as last amended by Regulation (EEC) No 2375/77 (2), should apply; whereas the same provisions may be applied to butter in private storage;

Whereas the necessary information should be communicated to the Commission regularly to enable it to follow the progress of the operation in the Member States;

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:

Article 1

1. The Member States shall, subject to the conditions laid down in this Regulation and, in particular, to the maximum quantities specified in paragraph 2:

(a) sell at a reduced price butter which has been the subject of the measures provided for in Article 6 (1) of Regulation (EEC) No 804/68 and has been stored for at least four months;

(b) grant aid in respect of butter which has been, during the 1977/78 milk year, the subject of a storage contract pursuant to Article 8 (2) of Regulation (EEC) No 985/68 and which has been stored under contract for at least four months on the date of the appplication referred to in Article 3 (2).

(1) OJ No L 190, 14. 7. 1976, p. 1.
(2) See page 29 of this Official Journal.

2. The quantities referred to in paragraph 1 shall be as follows:

(tonnes)

Member State	Total quantity	Breakdown	
		Public storage (minimum quantity)	Private storage (maximum amount)
Belgium and Luxembourg	5 500	200	5 300
Denmark	2 500	2 500	—
Germany	24 000	17 000	7 000
France	27 000	7 000	20 000
Ireland	2 000	—	2 000
Netherlands	4 000	2 500	1 500

Article 2

1. Butter from public storage shall be sold ex-cold storage depot at the buying-in price applied by the intervention agency concerned on the day when the contract of sale is concluded, less 70 units of account per 100 kilograms.

It shall be sold in lots of not less than five tonnes.

2. Contracts of sale shall be concluded before 10 December 1977.

3. The purchaser shall take delivery of the butter not later than 12 days after the contract of sale is concluded.

Before taking delivery, the purchaser shall:

— pay the purchase price of the butter,

— give a packing security in an amount of 75 units of account per 100 kilograms.

Except in case of *force majeure*, if the purchaser has not taken delivery of the butter within the limit specified, the sale shall be cancelled in respect of the remaining quantities.

Article 3

1. Butter from private storage shall qualify for aid of 70 units of account per 100 kilograms.

2. The person who concluded the storage contract shall, before 5 December 1977, submit an application for removal from storage to the intervention agency with which he concluded the contract, stating the quantities of butter he proposes to remove from storage and specifying its characteristics in the manner determined by the intervention agency, and the date fixed for removal from storage.

The agency shall without delay issue an acknowledgement of receipt authorizing or refusing, where appropriate in part, in accordance with Article 4, removal from storage in pursuance of this Regulation.

Article 4

The Member States shall take the appropriate steps to ensure as far as possible a balanced distribution of the quantities of butter referred to in Article 1, having regard in particular to the quantity of butter normally sold by the parties concerned for direct consumption.

Article 5

1. The butter shall be used exclusively for direct consumption in the Member State where removal from storage takes place.

For the purposes of this Regulation, Belgium and Luxembourg shall be regarded as a single Member State.

2. The butter shall be marketed in packets weighing not more than 500 grams, bearing on the upper surface, in letters at least 5 mm high :

(a) one or more of the following designations :

— 'Christmas butter',
— 'Beurre de Noël',
— 'Weihnachtsbutter',
— 'Kerstboter',
— 'Julesmør',
— 'Burro di Natale' ;

(b) the maximum price referred to in Article 11 (2), where the Member State concerned has fixed such a price pursuant to that provision.

However, the Member States may fix the maximum weight referred to above at 250 grams.

3. The butter shall be packed before 31 December 1977, in the Member State where the butter is to be offered for sale for direct consumption, and in an establishment approved for the purpose by the Member State concerned and on the conditions determined by that Member State.

Article 6

1. The butter shall remain in its original packing until it is put up in small packets.

It shall be accompanied by a list of the packages enabling the butter to be identified and specifying the date of removal from storage.

2. Packages containing butter in bulk or put up in small packets shall bear, in letters at least 2 cm high, one or more of the following designations :

— 'Butter at reduced price (Regulation (EEC) No 2370/77)',
— 'Beurre à prix réduit (règlement (CEE) n° 2370/77)',
— 'Butter zur herabgesetzten Preisen (Verordnung (EWG) Nr. 2370/77)',
— 'Boter tegen verlaagde prijs (Verordening (EEG) nr. 2370/77)',
— 'Smør til nedsat pris (forordning (EØF) nr. 2370/77)',
— 'Burro a prezzo ridotto (regolamento (CEE) n. 2370/77)'.

Article 7

1. If the butter is resold, the obligations as regards the use to be made of the butter and the latest date for packing shall be incorporated in the contract of sale.

Such contracts shall be drawn up in writing and shall specify that the purchaser is aware of the penalties imposed by the relevant Member State for breaches of the aforesaid obligations.

2. Holders of butter shall keep stock records setting out in respect of each delivery the name and address of the purchaser and the quantity purchased.

3. However, at the retail stage a record of quantities purchased shall suffice. The retail trade may only sell the butter for direct consumption.

Article 8

With regard to butter from private storage, the provisions of Regulation (EEC) No 1687/76 shall apply from the date when the butter is removed from storage.

Article 9

For the purposes of Regulation (EEC) No 1687/76 the butter shall be considered as having complied with the prescribed use and/or destination when it is established that it has been put up in small packets and taken over by the retail trade in the Member State where it was removed from storage.

Article 10

The aid provdided for in Article 3 (1) shall be paid only on production of the proof referred to in Article 12 of Regulation (EEC) No 1687/76, and in respect of the quantities specified in such documents.

Article 11

1. The Member States shall take all necessary steps to ensure that the effect of the price reduction or aid is felt at the retail stage.

2. To this end, Member States shall fix a maximum retail price for the butter.

However, the Member States may substitute for such a provision other provisions of equivalent effect.

Article 12

1. Subject to the conditions laid down in this Article and to a maximum of 7 000 tonnes, Italy shall grant aid of 70 units of account per 100 kilograms for the direct consumption of Italian butter manufactured from cream.

2. The holders of the butter involved shall, before 10 December 1977, send an application for aid to the Italian intervention agency setting the quantity, the date and the packing centre where the butter is to be put up in small packets.

3. The Italian intervention agency shall as soon as possible after the butter concerned has been purchased and put up for sale for direct consumption, authorize or refuse, where appropriate in part, the aid referred to in paragraph 1.

4. The provisions of Articles 4, 5, 7, 9, 10 and 11 of this Regulation shall apply to the distribution of the quantity of butter referred to in paragraph 1, its packaging in small packets, its marketing and the payment of the aid.

5. The provisions of Regulation (EEC) No 1687/76 shall apply with effect from the date when the butter is put up in small packs.

Article 13

Member States shall inform the Commission on the Tuesday of each week :

— of the quantities of butter from public storage which have been the subject of contracts of sale with the intervention agency pursuant to this Regulation,

— of the quantities of butter from private storage in respect of which the Member State has issued acknowledgments of receipt as provided for in the second subparagraph of Article 3 (2), or in the case of Italy, the document provided for in Article 12 (3) specifying the quantities authorized or refused.

Article 14

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

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

Done at Brussels, 28 October 1977.

For the Commission

Finn GUNDELACH

Vice-President