COMMISSION REGULATION (EEC) No 649/78

of 31 March 1978

on the sale at reduced prices of intervention butter for direct consumption as concentrated butter

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 2560/77 (2), and in particular Articles 6 (7) 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,

Having regard to Council Regulation (EEC) No 974/71 of 12 May 1971 on certain measures of conjunctural policy to be taken in agriculture following the temporary widening of the margins of fluctuation for the currencies of certain Member States (5), as last amended by Regulation (EEC) No 557/76 (6), and in particular Article 6 thereof,

Having regard to Council Regulation (EEC) No 1079/77 of 17 May 1977 on a co-responsibility levy and on measures for expanding the markets in milk and milk products (7), and in particular Article 4 thereof,

Whereas Commission Regulation (EEC) No 349/73 of 31 January 1973 on the sale at reduced prices of intervention butter for direct consumption as concentrated butter (8), as last amended by Regulation (EEC) No 954/77 (9), has been amended several times; whereas, in the light of experience gained in the application of that Regulation, further amendments should be made; whereas, for the sake of clarity, the said Regulation should be repealed and replaced by a new text;

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

Whereas it is not possible to dispose of all of these stocks of butter on normal terms during the milk year; whereas storage should not be prolonged because of the high costs involved; whereas measures should therefore be adopted to facilitate disposal of the butter;

Whereas, having regard to nutritional habits in certain Member States, where butter is not much used in food preparation, it is possible to increase the consumption of this product by selling it at reduced prices for direct consumption as concentrated butter; whereas, to this end, various Community provisions since 1972 have provided for such measures;

Whereas the market situation justifies the continuance of such measures; whereas, however, experience has shown that they may be used for a purpose other than that for which they were intended, and lead to disturbances of the market; whereas, to deal with these difficulties, it should be provided that the sale at a reduced price by the intervention agencies or the granting of an aid for butter may be undertaken only in those Member States which are in a position to lead such an operation to a successful conclusion; whereas, similarly, the quantities of butter involved should be limited in the light of the quantities of concentrated butter normally capable of being absorbed by private consumption within the Community during the period in question;

Whereas if such an operation were limited to butter in public storage, the removal of butter from private storage might be compromised; whereas, therefore, butter held under private storage contract in accordance with Article 9 (2) of Regulation (EEC) No 985/68 should also be included;

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 303, 28. 11. 1977, p. 1.
(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, 12. 5. 1971, p. 1.
(6) OJ No L 67, 15. 3. 1976, p. 1.
(7) OJ No L 131, 26. 5. 1977, p. 6.
(8) OJ No L 40, 13. 2. 1973, p. 1.
(9) OJ No L 113, 5. 5. 1977, p. 11.

Whereas the amount of the reduction in the selling price of the butter or the amount of aid must be such as to permit an increase in the consumption of butter; whereas provision should be made for the price reduction to be passed on down to the retail stage;

Whereas it is necessary to ensure, at all marketing stages, that a proper distinction is made between butter sold under this Regulation and other butter; whereas, to that end, provisions should be laid down governing the composition of concentrated butter, the means of distinguishing it from other butter and its putting up in small packs; whereas, to ensure that the operation is carried out correctly, a time limit should be set for such putting up;

Whereas provision should be made for a control system to ensure that the butter is not used for any purpose other than that for which it was intended; whereas, to this end, the provisions provided for by 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 525/78 [2], should apply also to butter from private storage; whereas the present Regulation should be included in the Annex to Regulation (EEC) No 1687/76; whereas it is necessary also to lay down additional control requirements in view of the special nature of the operation, in particular during the processing of the butter and in respect of the keeping of accounts by the parties concerned;

Whereas, moreover, so as to ensure that the quality of the concentrated butter does not deteriorate, a butterfat content should be prescribed such as will ensure good preservation;

Whereas the Member States should supply the Commission with the data necessary to enable it to follow the progress of the operation;

Whereas the value of the butter or concentrated butter should be taken into account as regards the monetary compensatory amounts fixed under Regulation (EEC) No 974/71; whereas, to this end, provision should be made to apply to the said amount a coefficient applicable to the butter or concentrated butter and currently set out in Commission Regulation (EEC) No 938/77 of 29 April 1977 fixing the monetary compensatory amounts and certain rates for their application [3], as last amended by Regulation (EEC) No 634/78 [4];

Whereas this Regulation will lead to more butter being sold as concentrated butter than has hitherto been sold annually under Regulation (EEC) No 349/73 and consequently to an increase in operating costs; whereas the additional expenditure so occasioned should be regarded as expenditure incurred as a result of a measure as referred to in the first indent of Article 4 (2) of Regulation (EEC) No 1079/77;

Whereas the Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Member States may, at their request, for the purpose of direct consumption in the Community as concentrated butter and within quantitative limits to be determined, be authorized:

(a) to sell at reduced prices butter which has been bought in under Article 6 (1) of Regulation (EEC) No 804/68 and has been in storage for at least four months;

(b) to grant aid for butter which has been in storage for at least four months under contract pursuant to Article 8 (2) of Regulation (EEC) No 985/68.

Article 2

1. Butter covered by Article 1 (a) shall be sold ex-storage depot at a price equal to the buying-in price applied by the intervention agency concerned on the day on which the contract of sale is concluded, less 141 units of account per 100 kilograms.

2. It shall be sold in quantities of not less than one tonne.

3. Delivery shall be taken not more than 12 days after the day on which the contract of sale is concluded.

Before taking delivery the purchaser shall:

— pay the purchase price of the butter;

— lodge a processing security of 145 units of account per 100 kilograms.

Except in cases of *force majeure*, the sale shall be cancelled in respect of any quantity of butter of which the purchaser has not taken delivery within the prescribed time limit.

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[1] OJ No L 190, 14. 7. 1976, p. 1.
[2] OJ No L 73, 15. 3. 1978, p. 8.
[3] OJ No L 110, 30. 4. 1977, p. 6.
[4] OJ No L 88, 3. 4. 1978, p. 1.

Article 3

1. Butter as referred to in Article 1 (b) which is removed from storage shall be eligible for an aid of 141 units of account per 100 kilograms.

2. The signatory to the storage contract shall, in the manner determined by the intervention agency, inform the intervention agency with which he concluded the contract of the quantities of butter which he intends to remove from storage, specifying its characteristics.

The intervention agency shall without delay issue an acknowledgement of receipt.

3. The aid referred to in paragraph 1 shall be paid to the signatory to the storage contract only on production of proof established pursuant to Article 6 (3) (b).

Article 4

1. The butter must be concentrated and packed, in accordance with Article 5, in an establishment approved for that purpose by the Member State on whose territory the said establishment is situated.

2. Packing must take place within not more than four weeks from the day :

— on which delivery is taken in accordance with Article 2 (3), as regards butter covered by Article 1 (a) ;

— on which the signatory to the contract receives the acknowledgement of receipt provided for in Article 3 (2), as regards butter covered by Article 1 (b).

Article 5

1. Concentrated butter must :

— contain at least 98 % butterfat ;

— have undergone, to the exclusion of all other processing, the incorporation provided for in paragraph 2 ;

— be marketed in plastic packs of not more than 250 grams, the form of which makes it possible to distinguish between concentrated butter and ordinary butter, bearing on the upper surface in letters at least 5 millimetres high, one or more of the following statements :

'butteroil for cooking'
'koncentreret smør til husholdningsbrug'
'Butterschmalz' or 'Butterreinfett'
'beurre concentré pour la cuisine'
'burro concentrato da cucina'
'braadboter' or 'boterconcentraat voor keukengebruik'.

2. During the melting of the butter there shall be incorporated per 100 kilograms of butter used, either :

(a) 15 grams of stigmasterol ($C_{29}H_{48}O = \Delta$-5,22-stigmastene-3-beta-ol) at least 95 % pure calculated on the product ready to be incorporated, or

(b) 17 grams of stigmasterol ($C_{29}H_{48}O = \Delta$-5,22-stigmastene-3-beta-ol) at least 85 % pure, calculated on the product ready to be incorporated, containing not more than 7·5 % brassicasterol ($C_{28}H_{46}O = \Delta$-5,22-ergostene-3-beta-ol) and not more than 4 % sitosterol ($C_{29}H_{50}O = \Delta$-5-stigmastene-3-beta-ol).

The competent agency shall ensure that the aforesaid requirements as to the quality and characteristics, in particular the degree of purity, of the products to be incorporated into the melted butter have been complied with.

Article 6

1. From the moment it leaves storage until it is taken over by the retail trade, the butter referred to in Article 1 (b) shall be subject to customs or equivalent administrative control.

2. The control referred to in paragraph 1 shall be subject to the provisions provided for in Articles 2 (2) and (3), 6, 7, 8 and 14 of Regulation (EEC) No 1687/76.

3. Furthermore, the butter referred to in Article 1 (b) shall be subject to the following provisions of Regulation (EEC) No 1687/76 :

(a) Article 11 as regards *force majeure ;*

(b) Article 12 as regards the provision of proof that control requirements have been complied with.

4. Where the butter referred to in Article 1 (b) or the concentrated butter manufactured therefrom is exported to a Member State, the special entries to be made in Section 104 of the control copy shall be those provided for in paragraph 15 of Part II of the Annex to Regulation (EEC) No 1687/76.

Furthermore, Section 106 of the control copy must include :

— where the butter is exported in its natural state for processing into concentrated butter and packing pursuant to Article 4, the date of receipt of the acknowledgement of receipt referred to in Article 3 (2) ;

— where the butter is exported after processing into concentrated butter and packing, an indication of the quantity of butter used to manufacture the quantity of concentrated butter indicated in Section 103.

Article 7

Throughout the processing and packing specified in Article 5, the Member State concerned shall carry out an on-the-spot inspection of the operation.

Article 8

1. Any person holding butter or concentrated butter must keep stock records showing for each delivery the name and address of purchasers of the butter or concentrated butter and the quantities purchased.

2. Where the butter is resold, the obligations concerning processing, packing and the final intended use and destination of the butter shall be mentioned in the contract of sale.

Such contract must be made in writing and specify that the buyer is aware of the penalties imposed by the Member State in question for breaches of the aforesaid obligations.

3. As regards retail trade, only the quantities purchased need be recorded.

Article 9

1. The butter covered by Article 1 shall remain in its original wrappings until it is processed into concentrated butter.

It shall be accompanied by a list of packages, enabling the butter to be identified and specifying the date on which it was removed from storage.

2. The wrappings of butter removed from storage shall bear one or more of the following statements in letters at least 2 centimetres high :

'butter for processing into butteroil (Regulation (EEC) No 649/78)'

'smør bestemt til forarbejdning til koncentreret smør (forordning (EØF) nr. 649/78)'

'Butter zur Verarbeitung zur Butterreinfett (Verordnung (EWG) Nr. 649/78)'

'beurre destiné à être transformé en beurre concentré (règlement (CEE) n° 649/78)'

'burro destinato ad essere trasformato in burro concentrato (regolamento (CEE) n. 649/78)'

'boter bestemd voor verwerking tot braadboter (Verordening (EEG) nr. 649/78)'.

3. The concentrated butter put up in plastic packs shall be delivered, and remain until offered for retail sale, in wrapping bearing one or more of the following statements :

'butteroil for cooking (Regulation (EEC) No 649/78)'

'koncentreret smør til husholdningsbrug (forordning (EØF) nr. 649/78)'

'Butterschmalz' oder 'Butterreinfett (Verordnung (EWG) Nr. 649/78)'

'beurre concentré pour la cuisine (règlement (CEE) n° 649/78)'

'burro concentrato da cucina (regolamento (CEE) n. 649/78)'

'braadboter (Verordening (EEG) nr. 649/78)'.

Article 10

The Member States on whose territory the concentrated butter is offered for retail sale shall adopt all necessary provisions to ensure that the amount of the price reduction or the amount of aid is reflected in the retail price.

To this end, they shall fix a maximum retail price for concentrated butter, the amount of which shall be shown on the packs together with the statement referred to in the third indent of Article 5 (1).

However, the Member States may in place of this obligation adopt other administrative provisions having equivalent effect.

Article 11

Every Member State shall communicate to the Commission on the Tuesday of each week particulars of :

— the quantities of the butter covered by Article 1 (a) which have been the subject of sale contracts ;

— the quantities of the butter covered by Article 1 (b) for which the Member State in question has issued acknowledgements of receipt ;

giving in each case separate figures for the quantities to be processed in another Member State.

Article 12

The monetary compensatory amounts applicable to butter or concentrated butter shall be equal to the monetary compensatory amounts fixed pursuant to Regulation (EEC) No 974/71, weighted by the coefficient given in Part 5 of Annex I to the relevant Commission Regulation fixing the monetary compensatory amounts.

Where necessary, the Commission may alter this coefficient.

Article 13

In Part 5 of Annex I to Regulation (EEC) No 938/77, the third indent of Note (4) is amended to read as follows :

'— in Regulation (EEC) No 349/73 (OJ No L 40, 13. 2. 1973), and in Regulation (EEC) No 649/78 (OJ No L 86, 1. 4. 1978), the amount shall be multiplied by the coefficient 0·40'.

Article 14

In the Annex to Regulation (EEC) No 1687/76, under 'II. Products subject to a use and/or destination other than that mentioned under I' :

(a) paragraph 5 and the relevant footnotes are deleted. However, these provisions shall continue to apply to authorizations granted and to contracts entered into prior to the date of entry into force of this Regulation ;

(b) the following paragraph 15 and relevant footnote are added :

'15. Commission Regulation (EEC) No 649/78 of 31 March 1978 on the sale at reduced prices of intervention butter for direct consumption as concentrated butter (1) :

(a) when the butter is exported in its natural state for processing into concentrated butter :

— Section 104 :

"for processing into butteroil and subsequent direct consumption (Regulation (EEC) No 649/78"

"bestemt til forarbejdning til koncentreret smør og senere umiddelbart forbrug (forordning (EØF) nr. 649/78)"

"zur Verarbeitung zu Butterreinfett für den späteren unmittelbaren Verbrauch (Verordnung (EWG) Nr. 649/78)"

"destiné à être transformé en beurre concentré et à la consommation directe ultérieure (règlement (CEE) n° 649/78)"

"destinato ad essere trasformato in burro concentrato ed all'ulteriore consumo diretto (regolamento (CEE) n. 649/78)"

"bestemd voor verwerking tot boterconcentraat en voor later onmiddellijk verbruik (Verordening (EEG) nr. 649/78)"

— Section 106 :

the date of removal from intervention storage ;

(b) when the butter is exported after it has been processed into concentrated butter and packed :

— Section 104 :

"for direct consumption (Regulation (EEC) No 649/78)"

"til umiddelbart forbrug (forordning (EØF) nr. 649/78)"

"für den unmittelbaren Verbrauch (Verordnung (EWG) Nr. 649/78)"

"destiné à la consommation directe (règlement (CEE) n° 649/78)"

"destinato al consumo diretto (regolamento (CEE) n. 649/78)"

"voor onmiddellijk verbruik (Verordening (EEG) nr. 649/78)"

— Section 106 :

the quantity of butter used for the manufacture of the quantity of concentrated butter indicated in Section 103.

(1) OJ No L 86, 1. 4. 1978, p. 33.'

Article 15

For purposes of financing this Regulation shall, as regards the additional expenditure occasioned by the increase in the annual quantities of butter sold under it in relation to those sold hitherto under Regulation (EEC) No 349/73, constitute a measure as referred to in the first indent of Article 4 (2) of Regulation (EEC) No 1079/77.

Article 16

1. Regulation (EEC) No 349/73 is hereby repealed.

2. It shall, however, continue to apply to authorizations granted and to contracts entered into prior to the date of entry into force of this Regulation.

Article 17

This Regulation shall enter into force on 3 April 1978.

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

Done at Brussels, 31 March 1978.

For the Commission

Finn GUNDELACH

Vice-President