COMMISSION REGULATION (EEC) No 131/79

of 25 January 1979

amending for the third time Regulation (EEC) No 649/78 on the sale at reduced prices of intervention butter for direct consumption as concentrated butter, and amending Regulation (EEC) No 1036/78

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 1761/78 (2), and in particular Articles 6 (7) and 28 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 (3), as last amended by Regulation (EEC) No 557/76 (4), and in particular Article 6 thereof,

Whereas Commission Regulation (EEC) No 649/78 (5), as last amended by Regulation (EEC) No 1369/78 (6), provides that Member States may be authorized *inter alia* to grant aid in respect of butter which has been in private storage and is to be sold for direct consumption as concentrated butter; whereas the purpose of that provision is to ensure a balance between the release of butter from public storage and its release from private storage; whereas, given the close relationship between butter and cream in private storage, which are subject to the same rules and conditions as regards storage aid, as laid down in Commission Regulation (EEC) No 685/69 (7), as last amended by Regulation (EEC) No 1025/78 (8), it is likewise advisable to extend the application of Regulation (EEC) No 649/78 to include cream;

Whereas, in order to allow for particular cases where the processing deadlines cannot be met, it must be stipulated either that the processing security will not be forfeit in full or that the aid will not be completely withdrawn, and that the Member States are to inform the Commission of such cases; whereas, furthermore, to ensure the most effective supervision and the uniform application of the system of securities in the Member States, and to harmonize the guarantees offered by the system of securities with those offered by the aid procedure, it is necessary to specify the deadline for producing the proof that the butter has been used required by Commission Regulation (EEC) No 1687/76 (9), as last amended by Regulation (EEC) No 1665/78 (10), beyond which deadline the security shall be forfeit;

Whereas the monetary compensatory amounts fixed pursuant to Regulation (EEC) No 974/71 should take account of the value of cream; whereas provision should be made for a coefficient to be applied to the amounts set out in Commission Regulation (EEC) No 1036/78 of 19 May 1978 fixing the monetary compensatory amounts and certain coefficients and rates for their application (11), as last amended by Regulation (EEC) No 101/79 (12);

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

Regulation (EEC) No 649/78 is amended as follows:

1. (a) The provisions of Article 1 become paragraph 1 of that Article.

   (b) The following paragraph 2 is added to Article 1:

   '2. The aid referred to in paragraph 1 (b) may be granted for cream in respect of which private storage aid has been granted in accordance with Article 27 of Regulation (EEC) No 685/69 and which has been in storage for at least four months. In this case,

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 204, 25. 7. 1978, p. 6.
(3) OJ No L 106, 12. 5. 1971, p. 1.
(4) OJ No L 67, 15. 3. 1976, p. 1.
(5) OJ No L 86, 1. 4. 1978, p. 33.
(6) OJ No L 166, 22. 6. 1978, p. 30.
(7) OJ No L 90, 15. 4. 1969, p. 12.
(8) OJ No L 132, 20. 5. 1978, p. 51.
(9) OJ No L 190, 14. 7. 1976, p. 1.
(10) OJ No L 192, 15. 7. 1978, p. 49.
(11) OJ No L 133, 22. 5. 1978, p. 1.
(12) OJ No L 15, 22. 1. 1979, p. 1.

— the word "butter" used in this Regulation to describe the butter removed from storage referred to in paragraph 1 (b) must be understood to mean "butter" or "cream converted into butter equivalents",

— the quantities of cream shall be converted into butter equivalents by multiplying their fat content by 1·25.'

2. (a) The second indent of Article 5 (1) is replaced by the following indent :

'— have undergone, to the exclusion of all processing other than that referred to in paragraph 4, the incorporation provided for in paragraph 2.'

(b) The following paragraphs 3 and 4 are added to Article 5 :

'3. If the cream referred to in Article 1 (2) is used, incorporation shall take place at the final stage in the manufacture of the concentrated butter, and the quantity of products incorporated shall be calculated as a function of the fat content of the cream converted into butter equivalents.

4. Nitrogen gas may be added to concentrated butter meeting the requirements of paragraphs 1 and 2 immediately before packing to cause foaming; the increase in volume resulting from this treatment may not exceed 10 % of the volume of the concentrated butter before treatment.'

3. The second subparagraph of Article 6 (4) is replaced by the following subparagraph :

'Furthermore, Section 106 of the control copy must include :

— where the butter or cream 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 or cream is exported after processing into concentrated butter and packing, an indication of the quantity of butter or cream used to manufacture the quantity of concentrated butter indicated in Section 103. If cream is used, its fat content must be stated.'

4. The following paragraph is added to Article 7 :

'If cream is used, the inspection must relate to its fat content.'

5. (a) In Article 9, the following paragraph 3 is added :

'3. In case of cream being removed from storage, in the statements listed in paragraph 2 :

— "butter" shall be replaced by "cream";
— "smør" shall be replaced by "Fløde";
— "Butter" shall be replaced by "Rahm";
— "beurre" shall be replaced by "crème";
— "burro" shall be replaced by "crema di latte";
— "boter" shall be replaced by "room".

(b) Paragraph 3 of Article 9 becomes paragraph 4.

6. The following Article 10a is added :

'Article 10a

1. In cases of *force majeure* not specified in Article 11 (1) of Regulation (EEC) No 1687/76, the intervention agency shall decide what measures should be taken in the circumstances invoked.

2. In circumstances which cannot be regarded as constituting *force majeure* and where :

— the processing deadline laid down in Article 4 (2) has been exceeded by no more than 20 days,

and where :

— failure to meet the deadine is not due to serious negligence on the part of the person concerned, the processing security forfeit shall, at that person's reasoned request, amount to no more than three units of account per tonne per day elapsed since the prescribed deadline, where butter referred to in Article 1 (1) (a) is concerned.

Where butter referred to in Article 1 (1) (b) is concerned, the aid specified in Article 3 (1) shall be reduced by three units of account per tonne per day elapsed since the deadline.

Such request as referred to in the preceding subparagraph shall be admitted only if it is lodged with the relevant intervention agency within 20 days of the specified deadline.

3. Member States shall inform the Commission each quarter of the cases in which they have applied paragraph 1 or paragraph 2, specifying the circumstances invoked, the quantity involved and the measures taken.

4. Except in cases of *force majeure*, the processing security referred to in the second indent of the second subparagraph of Article 2 (3) shall be forfeit for the quantities in respect of which the proof required under Regulation (EEC) No 1687/76 has not been furnished within 12 months of the day on which the product has been taken over.'

7. Article 11 is replaced by the following Article 11 :

'Article 11

The Member States shall communicate to the Commission on the Tuesday of each week, giving, for each of the three products below, separate figures for the quantities to be processed in another Member State :

— the quantities of butter referred to in Article 1 (1) (a) which have been the subject of contracts of sale ;

— the quantities of butter and cream referred to in Article 1 (1) (b) for which the Member State in question has issued acknowledgements of receipt.'

Article 2

In Part 5 of Annex I to Regulation (EEC) No 1036/78 :

(a) The following note (11) is added :

'(11) For cream covered by the measures provided for in Regulation (EEC) No 649/78 (OJ No L 86, 1. 4. 1978), the monetary compensatory amount shall be multiplied by the coefficient 0·40.'

(b) The note '(11)' is inserted in column 3 'Notes' in respect of subheadings 04.01 B II and 04.01 B III.

Article 3

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

However, the provisions of Article 10a (1), (2) and (3) shall apply to butter covered by contracts pursuant to Regulation (EEC) No 649/78 before this Regulation enters into force if the request of the person concerned is lodged within 20 days either of the date of entry into force of this Regulation or of the last day of the processing deadline laid down in Article 4 (2) of Regulation (EEC) No 649/78 where that deadline occurs after the date of entry into force of this Regulation.

The 12 month time limit referred to in Article 10a (4) shall apply to butter which is the subject of contracts signed after the entry into force of this Regulation.

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

Done at Brussels, 25 January 1979.

For the Commission

Finn GUNDELACH

Vice-President