COMMISSION REGULATION (EEC) No 1468/79

of 13 July 1979

on the granting of aid for butter from private storage for use in the manufacture of pastry products, ice-cream and other foodstuffs

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 878/77 of 26 April 1977 on the exchange rates to be applied in agriculture [3], as last amended by Regulation (EEC) No 1266/79 [4], and in particular Article 4 (3) thereof,

Whereas Commission Regulation (EEC) No 262/79 of 12 February 1979 on the sale of butter at reduced prices for use in the manufacture of pastry products, ice-cream and other foodstuffs [5], as last amended by Regulation (EEC) No 545/79 [6], is one of the special measures taken to encourage the disposal of butter stocks by permitting additional sales ;

Whereas it is important to ensure that the restriction of this operation to butter from public stocks does not have a harmful effect on the removal from storage of butter accorded the private storage aid referred to in Article 6 (2) of Regulation (EEC) No 804/68 ; whereas, pursuant to paragraph 3 of that Article, and in order to maintain outlets for butter from private storage, provision should be made for its use for the purposes laid down in Regulation (EEC) No 262/79 ;

Whereas such a measure may be introduced by extending the reduction in price laid down in that Regulation for butter from public stocks to butter covered by a storage contract pursuant to Article 8 (2) of Council Regulation (EEC) No 985/68 [7], as last amended by Regulation (EEC) No 1272/79 [8] ; whereas the reduction in the price of butter may be obtained by granting aid ; whereas for the sake of clarity it should be stipulated that aid shall be granted only in respect of butter removed from storage during the period for removal from storage fixed as running from 16 September each year to 31 March of the following year by Article 28 of Commission Regulation (EEC) No 685/69 [9], as last amended by Regulation (EEC) No 632/79 [10] ;

Whereas, in order to ensure a close correlation between the price of butter from public and from private storage, the period during which applications for aid may be submitted should be limited to the week following the week in which the individual invitation to tender for butter from public storage takes place ;

Whereas the aid should be fixed at a level allowing the regular entry of intervention products on to the market, in particular by maintaining the necessary relationship between quantities removed from storage and consumer needs, while respecting the priority given to public storage by Community rules ; whereas account should also be taken of the facilities for using butter from private storage and their economic impact ; whereas for these various reasons the level of aid should be lower than the minimum price fixed for the sale of butter from public storage during the corresponding period ; whereas the difference must be calculated as a function of the abovementioned requirements and their development according to the market situation ;

Whereas, to overcome any administrative difficulties which may arise in practice and to ensure uniform application in all the Member States, the rate to be used for converting aid into national currency should be specified ;

Whereas Article 4 (1) of Regulation (EEC) No 878/77 provides that, as regards the effect on rights and obligations existing at the moment when a representative rate is altered, the provisions of Council Regulation (EEC) No 1134/68 of 30 July 1968 laying down rules for the implementation of Regulation (EEC) No

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 204, 28. 7. 1978, p. 6.
(3) OJ No L 106, 29. 4. 1977, p. 27.
(4) OJ No L 161, 29. 6. 1979, p. 4.
(5) OJ No L 41, 16. 2. 1979, p. 1.
(6) OJ No L 72, 23. 3. 1979, p. 16.
(7) OJ No L 169, 18. 7. 1968, p. 1.
(8) OJ No L 161, 29. 6. 1979, p. 13.
(9) OJ No L 90, 15. 4. 1969, p. 12.
(10) OJ No L 79, 31. 3. 1979, p. 77.

653/68 on conditions for alterations to the value of the unit of account used for the common agricultural policy (1) shall apply;

Whereas, under Article 4 (2) of Regulation (EEC) No 1134/68, the sums referred to in the said Article are to be paid on the basis of the conversion rate applicable at the time when the transaction or part transaction is carried out; whereas, however, by virtue of Article 4 (3) of Regulation (EEC) No 878/77, derogations may be made from the abovementioned provisons;

Whereas, as regards the conversion into national currency of the aid provided for in this Regulation, in view of the fact that it is in the operator's interest to know the amount he will receive when he applies for aid, and in view also of the correlation between this Regulation and Regulation (EEC) No 262/79 and of the factors used to calculate the aid, and in order to simplify control, the representative rate adopted should be that in force on the day of expiry of the period for submission of individual tenders, of which the minimum price fixed is used as a basis for calculating the aid;

Whereas the application of the conditions and rules laid down for butter from private storage in Regulation (EEC) No 262/79 necessitates the adoption of rules allowing the adjustment of those provisions; whereas these rules apply in particular to the submission of applications for aid, the time limit for their acceptance by the intervention agency, the lodging of the processing security and the rules governing the packaging of butter removed from storage;

Whereas, in order to simplify complex administrative formalities and in view of the time limits laid down for manufacturing the end products, trade between Member States pursuant to this Regulation should be subject to the same arrangements as are applied under Regulation (EEC) No 262/79; whereas, since Article 18 (2) of that Regulation grants a reduction in price to users of butter from public storage at the time the butter is removed from storage, it should be stipulated that the aid is to be paid on the day on which the butter is removed from private storage;

Whereas, in order to ensure that butter removed from storage is not used for purposes other than those for which it is intended, it should be subject to the control system set up by Regulation (EEC) No 262/79, and in particular to the provisions of Commission Regulation (EEC) No 1687/76 (2), as last amended by Regulation (EEC) No 1042/79 (3);

Whereas Member States should provide the Commission with information similar to that provided for in Regulation (EEC) No 262/79, so that the operation can be kept under review;

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

Aid shall be granted, for butter under storage contract pursuant to Article 8 (2) of Regulation (EEC) No 985/68 for at least four months and whose release from stock is carried out during the stock release period fixed in Article 28 (1) of Regulation (EEC) No 685/69, when such butter is intended for use in the manufacture of pastry products, ice-cream and other foodstuffs referred to in Article 4 of Regulation (EEC) No 262/79.

Article 2

1. Applications for aid referred to in Article 4 may be submitted to the intervention agency only during the week beginning on the Monday following the expiry of the period for the submission of tenders referred to in Article 12 (2) of Regulation (EEC) No 262/79 (period of granting of aid).

2. Aid may be granted only for quantities of butter of not less than one tonne.

Article 3

1. The amount of aid expressed in ECU shall be calculated on the basis of the difference between the buying in price of the butter paid by the intervention agency granting aid on the date of expiry of the period for the submission of individual tenders referred to in Article 2 (1) and the minimum selling price referred to in Article 16 (1) of Regulation (EEC) No 262/79 for the individual invitation to tender concerned, less 5 ECU per 100 kilograms.

However, the reduction of 16·93 ECU per 100 kilograms in the minimum selling price referred to in the second subparagraph of Article 18 (2) of that Regulation shall apply to the minimum price referred to above with regard to the person signing the contract who has undertaken to comply with the conditions laid down in that subparagraph.

2. The representative rate used to convert the aid into national currency shall be that in force on the date of expiry of the period for the submission of individual tenders referred to in Article 2 (1).

(1) OJ No L 188, 1. 8. 1968, p. 1.
(2) OJ No L 190, 14. 7. 1976, p. 1.
(3) OJ No L 132, 30. 5. 1979, p. 11.

3. Payment of the aid shall not take place until :

(a) the butter has been removed from storage within the meaning of Article 5 (3) and provided that the time limit fixed therein has been complied with ;

(b) the processing security referred to in Article 5 (4) has been lodged.

Article 4

1. Aid shall be granted at the request of the person signing the storage contract with the intervention agency with which the contract was concluded.

2. An application for aid shall not be valid unless :

(a) it is accompanied by the written undertaking referred to in Article 3 of Regulation (EEC) No 262/79 ;

(b) proof is furnished that a security of 2·42 ECU per 100 kilograms of butter has been lodged.

3. Applications for aid shall state :

— the quantity of butter which the signatory to the contract proposes to remove from storage,

— the coldstore where the butter is stored,

— the lot numbers,

— the proposed dates for removal from storage,

— the Member State on whose territory the products will be either processed into concentrated butter as referred to in Article 5 of Regulation (EEC) No 262/79 or, where Article 10 (2) of that Regulation applies, processed into products referred to in Article 4 of that Regulation,

— the use to which butter is to be put (formula A and/or formula C or formula B) as referred to in Article 4 (1) and (2) of Regulation (EEC) No 262/79, specifying the kind of processing planned as referred to in the preceding indent,

— the name and address of the establishment or undertaking where the processing referred to above will take place.

4. An application for aid may not be withdrawn.

5. The intervention agency shall acknowledge receipt of the application as soon as possible and not later than the last day of the week following the period during which aid may be granted pursuant to Article 2 (1).

6. The security referred to in paragraph 2 (b) shall :

(a) be lodged with the intervention agency to which the application is made, and shall consist, at the option of the person signing the contract, of either a cash deposit or a guarantee issued by an institution satisfying the requirements laid down by the Member State on whose territory the security is lodged ;

(b) except in cases of *force majeure,* be forfeit for any quantity for which :

— the person signing the contract has withdrawn the application for aid,

— the payment of the aid has not been possible pursuant to Article 3 (3).

Article 5

1. The acknowledgement of receipt referred to in Article 4 (5) shall, from the day of issue, have the same force as the award of a tender pursuant to Article 16 of Regulation (EEC) No 262/79, and the holder of an aid contract shall be subject *mutatis mutandis* to the same obligations as a successful tenderer.

2. Rights and obligations arising from an aid contract shall not be transferable.

3. Removal from storage within the meaning of the penultimate subparagraph of Article 24 (1) of Regulation (EEC) No 685/69 shall take place within 45 days of the expiry of the period for submission of tenders referred to in Article 2 (1).

4. Before the butter is removed from storage, a processing security shall be lodged which shall be equal to the amount of the processing security referred to in Article 16 (2) of Regulation (EEC) No 262/79 minus the amount of the aid reduction referred to in the second indent of Article 3 (1).

5. The periods for processing operations referred to in Article 8 of Regulation (EEC) No 262/79 shall be calculated from the expiry of the period for submission of individual tenders referred to in Article 2 (1).

Article 6

1. As soon as it is removed from stock, and until it is processed into products referred to in Article 4 of Regulation (EEC) No 262/79, the butter referred to in Article 1 shall be subject to customs control or to an administrative control offering equivalent guarantees.

2. The provisions of Articles 2 (2) and (3), 6, 7, 8, 10 and 14 of Regulation (EEC) No 1687/76 and of Article 21 of Regulation (EEC) No 262/79 shall apply to the control referred to in paragraph 1.

The special endorsements to be entered in Sections 104 and 106 of the control copy shall be those given in the Annex.

3. The following provisions of Regulation (EEC) No 1687/76 shall also apply to the butter referred to in Article 1 :

(a) Article 11 concerning cases of *force majeure ;*

(b) Article 12 concerning proof that the control requirements have been complied with together with the provisions of Article 22 (3) of Regulation (EEC) No 262/79 ; and

(c) Article 13 concerning the lodging and release of the processing security referred to in Article 5 (4) of this Regulation and the furnishing of proof that this security has been lodged.

4. The following provisions of Regulation (EEC) No 262/79 shall also apply to the butter referred to in Article 1 :

(a) Article 22 (4) concerning the time limit after which the processing security is forfeit,

(b) Articles 22 (5), and 23 (2) and (3) concerning the partial forfeiture of the security.

Article 7

Butter removed from storage shall be delivered in packages bearing one or more of the following endorsements in letters at least one centimetre high :

'Butter from private storage for processing (Regulation (EEC) No 1468/79)' ;

'Smør fra privat oplagring bestemt til forarbejdning (forordning (EØF) nr. 1468/79)' ;

'Zur Verarbeitung bestimmte Butter aus privater Lagerhaltung (Verordnung (EWG) Nr. 1468/79)' ;

'Beurre de stock privé destiné à la transformation (règlement (CEE) n° 1468/79)' ;

'Burro di ammasso privato destinato alla trasformazione (regolamento (CEE) n. 1468/79)' ;

'Boter uit particuliere opslag bestemd voor verwerking (Verordening (EEG) nr. 1468/79)' ;

and indicating the use to which the butter is to be put ('formula A and/or formula C' or 'formula B').

Article 8

1. The Member States shall inform the Commission not later than the 15th day of each month of the quantities of butter :

— covered by an application for aid and for which the Member State has issued the acknowledgement of receipt referred to in Article 4 (5),

— in respect of which the processing security referred to in Article 5 (3) has been released.

2. The Member States shall also inform the Commission each quarter of the cases in which they have applied Article 23 (1) or (2) of Regulation (EEC) No 262/79, specifying the circumstances invoked, the quantities of butter involved and the measures taken.

Article 9

This Regulation shall enter into force on 16 July 1979.

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

Done at Brussels, 13 July 1979.

For the Commission

Finn GUNDELACH

Vice-President

ANNEX

Special endorsements to be entered in Sections 104 and 106 of the control copy

A. Butter intended for concentration and incorporation into pastry products, ice-cream or other foodstuffs :

(a) On the dispatch of butter :

— Section 104 : 'For concentration and subsequent processing (Regulation (EEC) No 1468/79)' ;

'Til smørfedt og efterfølgende forarbejdning (forordning (EØF) nr. 1468/79)' ;

'Zur Verarbeitung in Butterfett und Weiterverarbeitung (Verordnung (EWG) Nr. 1468/79)' ;

'Destiné à la concentration et à la transformation ultérieure (règlement (CEE) nº 1468/79)' ;

'Destinato alla trasformazione in burro concentrato e successivamente alla trasformazione (regolamento (CEE) n. 1468/79)' ;

'Bestemd voor boterconcentraat en verdere verwerking (Verordening (EEG) nr. 1468/79)'.

— Section 106 : 1. The date of expiry of the period for submission of individual tenders referred to in Article 2 (1) of Regulation (EEC) No 1468/79.

2. For butter intended for processing into products falling within subheading 19.02 B II b) and/or heading No 19.08 of the Common Customs Tariff, 'Formula A' and/or 'Formula C'.

For butter intended for processing into products falling within subheadings 18.06 B and 18.06 D or heading No 21.07 of the Common Customs Tariff, 'Formula B'.

(b) On the dispatch of concentrated butter :

— Section 104 : 'Concentrated butter for processing (Regulation (EEC) No 1468/79)' ;

'Smørfedt til forarbejdning (forordning (EØF) nr. 1468/79)' ;

'Butterfett zur Verarbeitung (Verordnung (EWG) Nr. 1468/79)' ;

'Beurre concentré destiné à la transformation (règlement (CEE) nº 1468/79)' ;

'Burro concentrato destinato alla trasformazione (regolamento (CEE) n. 1468/79)' ;

'Boterconcentraat bestemd voor verwerking (Verordening (EEG) nr. 1468/79)'.

— Section 106 : 1. The date of expiry of the period for submission of individual tenders referred to in Article 2 (1) of Regulation (EEC) No 1468/79).

2. The weight of butter used to produce the quantity of concentrated butter indicated in Section 103.

3. The type of incorporation carried out, using one of the following expressions, as appropriate :

(a) For butter concentrated in accordance with Annex I (V) to Regulation (EEC) No 262/79 and intended for processing into products falling within subheading 19.02 B II b) or heading No 19.08 of the Common Customs Tariff ;

— 'product 19.02 — 19.08 (monoglycerides, tocopherds/enanthic acid)' or 'product 19.02 (monoglycerides, tocopherds/stigmasterol)'.

(b) For concentrated butter intended for processing into raw dough falling within subheading 19.02 B II b) or into products falling within heading No 19.08 of the Common Customs Tariff ;

— 'product 19.02 — 19.08 (vanilla/enanthic acid)' or 'product 19.02 — 19.08 (vanilla/stigmasterol)' in the case of products resulting from incorporation as specified in Annex I (I) to Regulation (EEC) No 262/79,

— 'product 19.02 — 19.08 (carotene/enanthic acid)' or 'product 19.02 — 19.08 (carotene/stigmasterol)' in the case of products resulting from incorporation as specified in Annex I (II) to Regulation (EEC) No 262/79,

— 'product 19.02 — 19.08 (sugar/enanthic acid)' or 'product 19.02 — 19.08 (sugar/stigmasterol)' in the case of products resulting from incorporation as specified in Annex I (III) to Regulation (EEC) No 262/79),

— 'product 19.02 — 19.08 (skimmed-milk powder, sugar/enanthic acid)' or 'product 19.02 — 19.08 (skimmed-milk powder, sugar/stigmasterol)' in the case of products resulting from incorporation as specified in Annex I (IV) to Regulation (EEC) No 262/79.

(c) For concentrated butter intended for processing into products falling within heading No 18.06 or 21.07 :

— 'product 18.06 — 21.07 (vanilla/sitosterol)' in the case of products resulting from incorporation as specified in Annex II (I) to Regulation (EEC) No 262/79,

— 'product 18.06 — 21.07 (carotene/sitosterol)' in the case of products resulting from incorporation as specified in Annex II (II) to Regulation (EEC) No 262/79,

— 'product 18.06 — 21.07 (sugar/sitosterol)' in the case of products resulting from incorporation as specified in Annex II (III) to Regulation (EEC) No 262/79.

B. Butter for processing direct into pastry products or ice-cream :

— Section 104 : 'For direct processing (Regulation (EEC) No 1468/79)' ;
'Til umiddelbar forarbejdning (forordning (EØF) nr. 1468/79)' ;
'Zur direkten Verarbeitung (Verordnung (EWG) Nr. 1468/79)' ;
'Destiné à la transformation directe (règlement (CEE) nº 1468/79)' ;
'Destinato alla trasformazione diretta (regolamento (CEE) n. 1468/79)' ;
'Bestemd voor direkte verwerking (Verordening (EEG) nr. 1468/79)'.

— Section 106 : 1. The date of expiry of the period for submission of individual tenders referred to in Article 2 (1) of Regulation (EEC) No 1468/79.

2. For butter intended for processing into products falling within heading No 19.08 of the Common Customs Tariff, 'formula A'.

For butter intended for processing into products falling within subheadings 18.06 B and 18.06 D or heading No 21.07 of the Common Customs Tariff, 'formula B'.