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(Acts whose publication is obligatory)

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

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 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,

Whereas Commission Regulation (EEC) No 232/75 of 30 January 1975 on the sale of butter at reduced prices for use in the manufacture of pastry products and ice-cream (7), as last amended by Regulation (EEC) No 86/79 (8), has been amended numerous times; whereas further amendments should be made in order to expand the outlets at present provided for; whereas in the interests of clarity the relevant legislation should be consolidated;

Whereas stocks of Community butter have built up as a result of intervention under Article 6 (1) of Regulation (EEC) No 804/68;

Whereas it will not be possible to dispose of all these stocks on normal terms; whereas prolonged storage should be avoided because of the high cost involved; whereas measures should therefore be adopted to facilitate their disposal;

Whereas the sale of butter at reduced prices to certain Community processing undertakings for use in the manufacture of pastry products, ice-cream and certain products used in the manufacture of pastry products constitutes such a measure;

Whereas, to ensure that all purchasers have equal access to the butter and to keep a check on the quantities disposed of, a standing tendering procedure should be followed; whereas, to take account of the pattern of prices of competing oils and fats, it should be made possible to fix different minimum prices for pastry products and products used in the manufacture of pastry products, and for ice-cream;

Whereas the purchase of butter should be subject to conditions ensuring that the butter is not used for any purpose other than that for which it was intended; whereas a control system should apply from the time the butter leaves storage until it has been processed into the products specified; whereas, in addition to the control provisions provided for in 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 (9) as last amended by Regulation (EEC) No 1665/78 (10), it is also necessary to lay down additional control requirements in view of the specific nature of the operation;

Whereas these special control requirements involve incorporation in the butter of specified products

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 204, 28. 7. 1978, p. 6.
(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 24, 31. 1. 1975, p. 45.
(8) OJ No L 13, 19. 1. 1979, p. 18.
(9) OJ No L 190, 14. 7. 1976, p. 1.
(10) OJ No L 192, 15. 7. 1978, p. 49.

according to its intended use by which it can be distinguished from other butter; whereas in cases where semi-finished products are manufactured their composition and manufacturing characteristics should be specified; whereas time limits for processing the butter should be fixed and the requirements that processing undertakings must fulfil laid down and the maintenance of stock records at all stages of marketing should be prescribed; whereas, however, some of the conditions need not be applied to small-scale undertakings which use small quantities of butter and sell their products directly to the consumer, so as to allow for the special position of such undertakings;

Whereas in view of the size of the price reduction granted it is necessary to require that processing securities be lodged in order to guarantee that the butter will be used as prescribed; whereas to this end the amounts of the said securities should be determined by product manufactured on the basis of the difference between the market price of the butter and the special price at which it is sold; whereas in order to make the control as effective as possible and to guarantee uniform application of the requirements as regards securities in the Member States it is necessary, as experience has shown, to prescribe a time limit for production of the proof of utilization of the butter required under Regulation (EEC) No 1687/76, after which the security will be forfeit;

Whereas, to take account of special cases which may occur where the time limits for processing cannot be respected, it should be provided that the whole of the processing security should not be forfeit and that the Member States should inform the Commission of such cases;

Whereas the value of the 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 as currently set out in Commission Regulation (EEC) No 1036/78 [1];

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

Butter bought in under Article 6 (1) of Regulation (EEC) No 804/68 and taken into storage before a date to be determined shall be sold under the conditions described hereinafter.

[1] OJ No L 133, 22. 5. 1978, p. 1.

Article 2

The butter shall be sold by means of a standing invitation to tender opened by each intervention agency for the quantity of butter in question held by it.

TITLE I

Conditions relating to the processing of butter

Article 3

The tenderer may not submit a tender unless he gives a written undertaking to have the butter referred to Article 1 processed only into the products listed in Article 4, in accordance with the provisions of Articles 5, 6, 7, 8, 9 and 10.

Article 4

The products referred to in Article 3, set out according to the formula chosen and indicated in the tender, shall be as follows:

1. **Formula A:**

   Products falling within heading No 19.08 of the Common Customs Tariff.

2. **Formula B:**

   (a) ice-cream falling within subheadings 18.06 B and 21.07 C of the Common Customs Tariff and containing 20 % or less by weight of milk fat, or

   (b) powder preparations, excluding yoghourt powder, for the manufacture of ice-cream falling within subheading 18.06 D or heading No 21.07 of the Common Customs Tariff and containing 33 % or less by weight of milk fat and one or more flavourings and emulsifiers or stabilizers, which are suitable for consumption without any further treatment besides the addition of water and the necessary mechanical treatment and freezing;

3. **Formula C:**

   Products falling within subheading 19.02 B II b) of the Common Customs Tariff:

   (a) in the form of:

      (aa) uncooked dough:

         — with a flour base of 55 % or more of the weight of the constituents except water, mixed with milk fat and with other ingredients such as sugar (sucrose), eggs or egg yolk, milk

powder and salt, excluding any other fat used as such and/or not forming part of the normal composition of the ingredients ;

— containing yeasts, emulsifiers or stabilizers, flavourings, etc. ;

— whose milk fat content by weight, calculated on the dry matter, is 40 % or less ;

— the ingredients of which have been thoroughly kneaded and the fat emulsified so that no matter what physical treatment is applied it is impossible to separate the milk fat ;

— cut up into pieces of characteristic sizes and shapes ;

— ready for baking, or other heat treatment of quivalent effect, for the direct production of goods falling within heading No 19.08 of the Common Customs Tariff ;

— put up in accordance with the provisions of (b) (aa), or

(bb) powder preparation :

— with a 60 % or higher flour base mixed with milk fat in which the products referred to under V of Annex I have been incorporated and with other ingredients such as sugar (sucrose), powdered egg or powdered egg yolk, milk powder and salt, excluding any other fat used as such and/or which is not part of the normal composition of the ingredients ;

— containing yeast, emulsifiers, stabilizers, flavouring, etc. ;

— whose milk fat content by weight, calculated on the dry matter, is 30 % or less ;

— ready for kneading, grinding, simple or multiple fermentation or cutting up to obtain a dough which, after baking or other heat treatment of equivalent effect, directly produces products falling within heading No 19.08 of the Common Customs Tariff ;

— put up in accordance with the provisions of (b) (aa), and

(b) satisfying the following conditions :

(aa) — uncooked dough must be put up in units of a maximum content of 5 kg, packed in outer cartons if required ;

— powder preparations must be put up in packages of a maximum content of 25 kg ;

— all packages must bear, in letters of at least 1 cm high, the following information :

— the serial number given to the production establishment when it has been approved as described in Article 9,

— the date of manufacture (a code maybe used),

— the milk fat content by weight, calculated on the dry matter,

— the words 'products 19.02 — Article 4 (3) Regulation (EEC) No 262/79' ;

(bb) without prejudice to the provisions of (dd), the processing into products falling within subheading 19.02 B II b) of the Common Customs Tariff as referred to under (a) may be undertaken only in establishments approved, in accordance with the provisions of Article 9, by the Member State in whose territory that processing takes place ;

(cc) the approved establishment :

— must retain, for at least four months from the end of the period referred to in the second indent of Article 8, for each batch of products referred to under (a), a sample, taken under the administrative inspection procedure provided for in Article 21, of the concentrated butter used in manufacturing the batch ; and

— must keep the stock records referred to in Article 9 (1) (c) ;

(dd) however, the following establishments manufacturing the products referred to under (a) (aa) shall not be subject to the approval referred to in (bb) or to the provisions of (cc) :

— establishments which use a maximum quantity of concentrated butter determined by the Member State concerned, which may not exceed 200 kg per month, and which

— sell their production directly to the consumer.

These establishments shall :

— apply for registration to the competent agency in the Member State in whose territory they are located,

— undertake to use the concentrated butter in accordance with this Regulation,

— retain for at least three years the purchase invoices relating to the concentrated butter.

Article 5

1. The butter awarded must be processed in its entirety into concentrated butter of a fat content of not less than 99·8 %, in an establishment approved in accordance with Article 9 by the competent body appointed by the Member State in whose territory the processing is carried out and must produce a minimum quantity of 100 kg of concentrated butter from :

— 122·5 kg, of original butter, where the fat content of the butter sold is 82 % or more,

— 125·5 kg of original butter, where the fat content of the butter sold is less than 82 %.

2. In the course of this processing and in the same establishment the following must be incorporated to the exclusion of all other products and in such a way as to ensure uniform diffusion of the ingredients, per tonne of concentrated butter :

— if the concentrated butter is to be processed into formula A or formula C products as specified in Article 4 (1) and (3) (a) respectively : the products listed in Annex I ;

— if the concentrated butter is to be processed into formula B products as specified in Article 4 (2) : products listed in Annex II.

3. The competent body appointed by the Member State concerned shall make sure that the requirements as to the quality and characteristics, in particular the degree of purity, of the products referred to in paragraph 2 to be incorporated in the butter have been satisfied.

Every Member State may decide that the following products are not to be used in its territory :

— if the concentrated butter is to be processed into formula A or formula C (a) (aa) products : either one or two of the products resulting from the types of incorporation specified in Annex I (I), (II), (III) or (IV), and/or one of these products for which a specific possibility from among those set out in Annex I (I) (b), (II) (b), (III) (b), (IV) (b) and the first indent of (V) (b) (cc) has been used ;

— if the concentrated butter is to be processed into formula B products : one or two of the products resulting from the incoproration specified in Annex II (I), (II) or (III).

If a Member State avails itself of this option, it shall forthwith inform the Commission of the process or processes chosen. The Commission shall inform the other Member States thereof.

Article 6

If the operations provided for in Article 5 (1) and (2) and the processing provided for in Article 4 are not carried out in the same place, the concentrated butter shall be put up in blocks weighing not less than 10 kg ; in case V of Annex I, in bags or cartons weighing not less than 10 kg.

The packages shall bear, in letters at least 1 cm high, an indication as to the use ('formula A and/or C or formula B') to which the butter is to be put and one or more of the following endorsements :

'Concentrated butter intended exclusively for processing into one of the products listed in Article 4 of Regulation (EEC) No 262/79' ;

'Koncentreret smør udelukkende bestemt til forarbejdning til et af de produkter, som er nævnt i artikel 4 i forordning (EØF) nr. 262/79'.

'Butterfett ausschließlich zur Verarbeitung zu einem der in Artikel 4 der Verordnung (EWG) Nr. 262/79 genannten Erzeugnisse' ;

'Beurre concentré destiné exclusivement à la transformation en un des produits visés à l'article 4 du règlement (CEE) n° 262/79' ;

'Burro concentrato destinato esclusivamente alla trasformazione in uno dei prodotti di cui all'articolo 4 del regolamento (CEE) n. 262/79' ;

'Boterconcentraat uitsluitend bestemd voor verwerking tot één van de bij artikel 4 van Verordening (EEG) nr. 262/79 bedoelde produkten' ;

The concentrated butter may also be transported by tanker or container ; in such case, the abovementioned endorsements shall be marked on the tank or the container in letters at least 5 cm high.

Article 7

Further processing of the products specified in Article 4 shall be permitted only if the products obtained fall within one of the tariff headings referred to in that Article and if no product falling within any other heading is produced at any intermediate stage of such processing.

Article 8

The butter awarded shall be processed in the Community, within a period :

— of three months for the processing operations referred to in Article 5 (1) and (2),

— of eight months for the processing operation referred to in Article 4,

calculated from the final day for submission of tenders as specified in Article 12 (2).

Article 9

1. An establishment may be approved for the purposes of Article 4 (3) (b) (bb) and Article 5 (1) only if :

(a) it has suitable technical equipment and is capable of processing an average quantity of at least two tonnes of butter per month ;

(b) its premises are so designed as to permit the isolation and identification of stocks, if any, of non-butter fats ;

(c) it undertakes to keep permanent records showing the origin of the raw materials used, the quantities used, the quantities and composition of the products obtained, the dates when the products leave the establishment and the names and addresses of the purchasers ; and

(d) undertakes to send its production programme to the agency responsible for the inspection procedure referred to in Article 21 in accordance with the detailed rules laid down by the Member State.

2. Approval shall be withdrawn if a serious infringement of this Regulation is established.

Article 10

1. The successful tenderer must :

(a) keep stock records showing, for each delivery, the names and addresses of the purchasers of the product obtained from the operations referred to in Article 5 (1) and (2) and the corresponding quantities, and specifying their use (formula A and/or C or formula B) ;

(b) provide that the following requirements be included in the sales contract in the event of subsequent resale of this product :

— a requirement that the butter processed into the products specified in Article 4,

— requirement to process the butter or to have it processed within one of the periods laid down in Article 8,

— where appropriate, the requirement as to stock records specified at (a),

— the requirement to keep the stock records referred to in Article 9 (1) (c) or to comply with the requirements set out in Article 4 (3) (b) (dd) ;

2. However, an undertaking may take part in the tendering procedure without subscribing to the conditions provided for in Article 5 (1) and (2) if it gives a written undertaking to fulfil the following conditions :

(a) all the butter awarded shall be processed in accordance with the use specified in the tender (formula A or formula B) into the products specified in Article 4 (1) and (2) within eight months of the final day for submission of tenders as specified in Article 12 (2) ;

(b) the processing referred to under (a) shall be undertaken in such a way that the minimum quantity of butter used in each factory in one month is five tonnes.

In such case, the Member State in whose territory the processing takes place shall carry out on the spot inspections in respect of the processing of each batch in such manner as it shall determine, but covering at least the points specified in Article 21 ; the costs of such inspections shall be borne by the undertaking concerned.

TITLE II

Tendering procedure

Article 11

1. The intervention agency shall issue a notice of invitation to tender, indicating in particular :

(a) the location of the coldstore or stores where the butter is held ;

(b) the quantity of butter for sale in each store, indicating separately, where appropriate, the quantity of butter of a fat content of less than 82 % ;

(c) the closing date and address for the submission of tenders.

2. The notice of invitation to tender shall be published in the *Official Journal of the European Communities* at least eight days before the first closing date for the submission of tenders. In addition, the intervention agency may publish notices elsewhere.

Article 12

1. During the period of validity of the standing invitation to tender, the intervention agency shall issue individual invitations to tender. Each individual invitation to tender shall cover such part of the butter specified in Article 1 as is still available.

2. The period for the submission of each of these individual tenders shall expire at 12 noon each second and fourth Tuesday of the month, except the fourth Tuesday in December. If the Tuesday is a public holiday, the period shall be extended to 12 noon on the following working day.

Article 13

1. The intervention agency shall update and make available to prospective tenderers on request the list provided for in Article 11 (1) (b) of the quantity of butter for sale by tender in each coldstore. The intervention agency shall also publish the updated lists at regular intervals in an appropriate form to be specified in the notice of invitation to tender provided for in Article 11.

2. The intervention agency shall take the measures necessary to enable prospective tenderers to examine at their own expense, before tendering, samples of the butter for sale.

Article 14

1. Tenders, which shall be in writing, shall be submitted either by delivery by hand to the intervention agency against acknowledgement of receipt or by registered letter addressed to the intervention agency. Intervention agencies may authorize the use of telex.

2. The tender shall state :

(a) the name and address of the tenderer ;

(b) the quantity to which the tender relates, specifying the fat content of the butter where the intervention agency concerned has offered for sale butter of a fat content of less than 82 %,

(c) the use to which the butter is to be put (formula A and/or formula C or formula B) ;

(d) the price offered per 100 kg of butter having the fat content required, exclusive of the price reduction provided for in the second subparagraph of Article 18 (2) and of internal taxes, ex coldstore in which the butter is held, expressed in the currency of the Member State in which the invitation to tender is held ;

(e) the coldstore in question and if desired an alternative store.

A tender relating to two or more stores, independently of any alternative store, shall be considered to comprise as many tenders as there are coldstores mentioned.

Tenders shall relate only to butter of uniform fat content (82 % or more, or less than 82 %) intended for the same use (formula A and/or C or formula B).

3. A tender shall not be valid unless it relates to at least three tonnes. However, if the quantity available in a store is less than three tonnes the available quantity shall constitute the minimum quantity for tender.

4. A tender shall not be valid unless :

(a) it is accompanied by the written undertaking referred to in Article 3 ;

(b) the tenderer includes a declaration to the effect that he agrees to forgo any claim as to the quality and characteristics of any butter sold to him ;

(c) proof is furnished that before expiry of the period set for the submission of tenders, the tenderer has lodged the tendering security referred to in Article 15 in respect of the relevant individual invitation to tender.

5. A tender may stipulate that it is not to be regarded as having been submitted :

(a) unless a contract is awarded in respect of the entire quantity indicated in the tender ;

(b) unless a contract is awarded in respect of a specific quantity indicated in the tender.

6. No tender may be withdrawn after the closing date as specified in Article 12 (2) for the individual invitation to tender concerned.

Article 15

1. The tendering security shall be 50 units of account per tonne.

2. The security shall consist, at the choice of the tenderer, either of a cash deposit or of a guarantee issued by an institution satisfying the requirements laid down by the Member State with which the security is to be lodged.

3. The tendering security shall be lodged in the Member State in which the tender is submitted.

Article 16

1. In the light of the tenders received in response to each individual invitation to tender and in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68, a minimum selling price shall be fixed, which may be varied according to the use to which the butter is to be put (formula A and C or formula B) and according to the fat content of the butter.

A decision may be taken to make no award in respect of an invitation to tender.

2. At the same time as the minimum selling price is fixed and under the same procedure, the amounts per 100 kg of the processing securities intended to ensure that the butter is used in accordance with this Regulation shall be fixed by reference to the differences between the market price of the butter and the minimum prices fixed.

Article 17

1. A tender shall be rejected if the price offered is lower than the minimum price fixed for the individual invitation to tender, account being taken of the proposed use and the fat content of the butter in question.

2. Subject as provided in paragraph 1, a contract shall be awarded to the tenderer whose offer differs most from the minimum price fixed for butter to be used for the purpose specified in the tender.

If the quantity available in the store in question is not exhausted by this award, contracts for the remaining quantity shall be awarded to the other tenderers according to the price offered, starting with that whose price differs most from the relevant minimum price.

3. Where acceptance of a tender would lead to a contract being awarded for more butter than is available at the coldstore in question, a contract shall be awarded to the tenderer concerned only in respect of the quantity available.

4. Where acceptance of two or more tenders offering the same price for butter to be put to the same purpose or differing by the same amount from the relevant minimum price, would lead to contracts being awarded in excess of the quantity available, the award shall be made by dividing the quantity available proportionately to the quantities specified in the tenders concerned.

However, where such allocation would lead to any award of less than three tonnes of butter, the awards shall be made by drawing lots.

5. Rights and obligations arising in connection with the invitation to tender shall not be transferable.

TITLE III

Execution of the tendering procedure

Article 18

1. Every tenderer shall immediately be notified by the intervention agency of the result of his participation in an individual invitation to tender.

2. The successful tenderer shall, before taking delivery of the butter and within the period specified in Article 19 (2), pay the intervention agency an amount corresponding to his tender for the quantity which he intends to remove from store.

However, in the case of successful tenderers who have undertaken to process the butter into products referred to in Article 4 under the conditions referred to in Article 5, the price shall be reduced by 14 units of account per 100 kg.

Article 19

1. When the amounts referred to in Article 18 (2) of this Regulation have been paid and the securities referred to in Article 16 (2) have been lodged in accordance with Article 13 (1) of Regulation (EEC) No 1687/76, the intervention agency shall issue a removal warrant stating :

(a) the quantity of butter in respect of which the conditions referred to above have been satisfied ;

(b) the coldstore where it is stored ;

(c) the final date for taking delivery ;

(d) the closing date for the individual invitation to tender under which the butter was sold.

2. The successful tenderer shall take delivery of the butter within 45 days of the final date for submission of tenders. Delivery may be in instalments.

Except in cases of *force majeure*, if the successful tenderer has not made the payment referred to in Article 18 (2) within the specified period, the sale shall be cancelled in respect of the remaining quantities.

If the payment referred to in Article 18 (2) has been made without delivery of the butter having been taken within the period referred to above, the successful tenderer shall bear the cost of storing the butter with effect from the day following that referred to in paragraph 1 (c).

Article 20

The butter shall be delivered by the intervention agency in packages bearing one or more of the following endorsements in letters at least 1 cm high :

'Butter for processing (Regulation (EEC) No 262/79)',

'Smør bestemt til forarbejdning forordning (EØF) nr. 262/79)',

'Zur Verarbeitung bestimmte Butter (Verordnung (EWG) Nr. 262/79)',

'Beurre destiné à la transformation (règlement (CEE) n° 262/79)',

'Burro destinato alla trasformazione (regolamento (CEE) n. 262/79)',

'Boter voor verwerking (Verordening (EEG) nr. 262/79)',

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

Article 21

Throughout the processing and incorporation operations referred to in Article 5 (1) and (2) and in Article 4 (3) (a), the Member State in whose territory the operations take place shall carry out frequent inspections without notice, according to the manufacturing programme of the undertakings, covering in particular the conditions of manufacture, including the taking of samples referred to in Article 4 (3) (b) (cc), and the keeping of stock records, the composition of the products obtained and the application of the provisions of Article 9 (1) (b) governing the holding of non-butter fats.

Article 22

1. Except in cases of *force majeure,* the tendering security shall be forfeit in respect of any quantity for which the tenderer :

(a) withdrew the tender after expiry of the time limit as specified in Article 12 (2) for the presentation of tenders, or

(b) did not, within the period prescribed, pay the amount corresponding to the tender referred to in Article 18 (2) or lodge the processing security referred to in Article 16 (2).

2. The tendering security in respect of any quantity for which no contract was awarded shall be released immediately.

3. As regards the products referred to in Article 5 (1) and (2), the Member States may provide that the control referred to in Article 2 (1) of Regulation (EEC) No 1687/76 shall be considered to have been carried out if the vendor submits a declaration by the final user in which the latter :

— confirms his obligation, as set out in the sales contract, to process within the prescribed period the products referred to in Article 5 (1) and (2) into one of the products referred to in Article 4 (1), (2) and (3) as stated in the tender (formula A or formula B or formula C), and

— states that he is aware of the penalties he may incur, which are to be determined by the Member State concerned, if he should be found not to have fulfilled the obligations entered into by him.

The Member States shall determine the maximum quantity of concentrated butter, which may not exceed 200 kg per month, in respect of which such declaration may be made, and shall inform the Commission of this maximum quantity immediately upon making use of the abovementioned power.

4. Except in cases of *force majeure,* the processing security referred to in Article 16 (2) shall be forfeit in proportion to the quantities for which the proof specified in Regulation (EEC) No 1687/76 has not been produced within 18 months, calculated from the final day for submission of tenders referred to in Article 12 (2).

5. Where the processing into the products referred to in Article 4 has been carried out in such a way that the conditions referred to in Article 5 have been only partially complied with, the security shall be forfeit in respect of the batch concerned.

However, if the infringement established relates only to the products to be added and involves a short fall of less than 20 % in relation to the proportions laid down in Annexes I and II in respect of those products, the security shall be forfeit in an amount not exceeding 25 %.

Article 23

1. In cases of *force majeure* not coming within Article 11 (1) of Regulation (EEC) No 1687/76 the intervention agency shall determine the measures necessary in view of the circumstances invoked.

2. In other cases which cannot be regarded as cases of *force majeure* and where

— the periods for processing referred to in Article 8 or the period for processing referred to in Article 10 (2) (a) have been exceeded by no more than 60 days in total and

— the delay has not been due to serious negligence on the part of the party concerned,

the amount of the processing security to be forfeit shall, if the party concerned submits a properly reasoned application to that effect, be only three units of account per tonne for each day by which the prescribed periods have been exceeded.

Such application shall be admissible only if it is lodged with the intervention agency concerned within 60 days from the day on which the period in question expired.

3. The 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.

TITLE IV

General provisions

Article 24

The monetary compensatory amounts applicable in respect of their butter content to the butter and

concentrated butter specified in Article 5 (1) and (2) and the products specified in Article 4 (3) (a), sold pursuant to this Regulation, shall be equal to the monetary compensatory amounts fixed under Regulation (EEC) No 974/71 multiplied by the coefficient given in Annex I, Part 5, in the corresponding note to the Commission Regulation fixing the monetary compensatory amounts.

If necessary the Commission may adjust these coefficients.

Article 25

Regulation (EEC) No 232/75 is hereby repealed. It shall, however, remain applicable to butter which has been sold before this Regulation comes into force.

Article 26

This Regulation shall enter into force on 5 March 1979.

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

Done at Brussels, 12 February 1979.

For the Commission

Finn GUNDELACH

Vice-President

ANNEX I

Products to be incorporated into the concentrated butter (per tonne) where such concentrated butter is to be processed into formula A and formula C products

(first indent of Article 5 (2))

I. Either :

(a) — 250 g of 4 hydroxy-3 methoxybenzaldehyde obtained either from vanilla or from synthetic vanillin ; or

— 100 g of 4 hydroxy-3 methoxybenzaldehyde obtained exclusively from vanilla beans or integral extracts thereof (1), and

(b) — 11 kg of triglycerides of enanthic (n-heptanoic) acid, at least 95 % pure, calculated as triglycerides on the product ready for incorporation, with a maximum acid value of 0·3 %, a saponification number between 385 and 395, and a 95 % minimum content of enanthic acid in the esterified acid part ; or

— 150 g of stigmasterol ($C_{29}H_{48}O$ = Δ-5·22-stigmastene-3 beta-ol), at least 95 % pure, calculated on the product ready for incorporation ; or

— 170 g of stimasterol ($C_{29}H_{48}O$ = Δ-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 ($C_{28}H_{46}O$ = Δ-5·22-ergostene-3 beta-ol) and not more than 4 % sitosterol ($C_{29}H_{50}O$ = Δ-5-stigmastene-3 beta-ol).

II. Or :

(a) 20 g of ethyl ester of beta-apo-8'-carotenic acid, in the form of a compound soluble in the butterfat, and

(b) — 11 kg of triglycerides of enanthic (n-heptanoic) acid, at least 95 % pure, calculated as triglycerides on the product ready for incorporation, with a maximum acid value of 0·3 %, a saponification number between 385 and 395, and a 95 % minimum content of enanthic acid in the esterified acid part ; or

— 150 g of stigmasterol ($C_{29}H_{48}O$ = Δ-5·22-stigmastene-3 beta-ol), at least 95 % pure, calculated on the product ready for incorporation ; or

— 170 g of stigmasterol ($C_{29}H_{48}O$ = Δ-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 ($C_{28}H_{46}O$ = Δ-5·22-ergostene-3 beta-ol) and not more than 4 % sitosterol ($C_{29}H_{50}O$ = Δ-5-stigmastene-3 beta-ol).

III. Or :

(a) 250 kg of refined granulated or powdered sugar, and

(b) — 11 kg of triglycerides of enanthic (n-heptanoic) acid, at least 95 % pure, calculated as triglycerides on the product ready to be incorporated, with a maximum acid value of 0·3 % a saponification number between 385 and 395, and a 95 % minimum content of enanthic acid in the esterified acid part (2) ; or

(1) The method of analysis by means of which compliance with this provision is checked is to be the method applied by the official agencies of the Member State in which processing into finished products takes place.
(2) In this case, the final product will have a minimum fat content of 79·1 %.

— 150 g of stigmasterol ($C_{29}H_{48}O$ = Δ-5·22-stigmastene-3 beta-ol) at least 95 % pure, calculated on the product ready for incorporation (1); or

— 170 g of stigmasterol ($C_{29}H_{48}O$ = Δ-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 ($C_{28}H_{46}O$ = Δ-5·22-ergostene-3 beta-ol) and not more than 4 % sitosterol ($C_{29}H_{50}O$ = Δ-5-stigmastene-3 beta-ol).

IV. Or :

(a) 250 kg of a mixture of one or more components of the non-fat dry content of the milk, whether or not in the form of skimmed-milk powder, and/or wheat flour (corn) and/or cereal starch or its derivatives such as dextrin, malto-dextrin, maltose and/or sugar (sucrose), and

a volume of nitrogen gas guaranteeing a foamy texture to the finished product having a maximum water content of 3 % by weight, and

(b) — 11 kg of triglycerides of enanthic (n-heptanoic) acid, at least 95 % pure calculated as triglycerides on the product ready for incorporation, with a maximum acid value of 0·3 %, a saponification number between 385 and 395, and a 95 % minimum content of enanthic acid in the esterified acid part, or

— 150 g of stigmasterol ($C_{29}H_{48}O$ = Δ-5·22-stigmastene-3 beta-ol), at least 95 % pure, calculated on the product ready for incorporation, or

— 170 g of stigmasterol ($C_{29}H_{48}O$ = Δ-5·22-stigmastene-3 beta-ol), at least 85 % pure, calculated on the product ready for incorporation, with a maximum of 7·5 % of brassicasterol ($C_{28}H_{46}O$ = Δ-5·22-ergostene-3 beta-ol) and with a maximum of 4 % sitosterol ($C_{29}H_{50}O$ = Δ-5-stigmastene-3 beta-ol).

V. Either :

(a) at least 310 kg of a mixture of one or more components of the non-fat dry content of the milk, whether or not in the form of skimmed-milk powder, and/or of wheat flour (corn) and/or of cereal starch or of its derivatives such as dextrin, malto-dextrin, maltose, etc. dissolved or dispersed in the water. The aqueous phase that is obtained is emulsified with the milk fat, in which have been dissolved the products indicated in (aa), (bb) and (cc) of (b) hereunder. This emulsion is then dried by the 'spray' process or by another process having an equivalent effect to give a powder with a minimum milk fat content of 75 %, a maximum water content by weight of 2 %, and a physical structure which makes it impossible to separate the fatty phase by the action of heat up to at least 80 °C, and

(b) (aa) 10·0 kg of monoglycerides of the fatty acids C_{18} and/or C_{16} (E 471) at least 90 % pure, calculated as monoglycerides on the product ready for incorporation, and meeting the requirements of Council Directive 78/663/EEC of 25 July 1978, and

(bb) 100 g of 6-palmitoyl-l-ascorbic acid (ascorbyl palmitate) (E 304) or of natural extracts rich in tocopherol (E 306) or of synthetic alpha-tocopherol (E 307), or of a mixture of these, meeting the requirements of Council Directive 78/664/EEC of 25 July 1978, and

(cc) — 11 kg of triglycerides of enanthic ('N-heptanoic) acid, at least 95 % pure, calculated as triglycerides on the product ready for incorporation, with a maximum acid value of 0·3 %, a saponification number between 385 and 395, and a 95 % minimum content of enanthic acid in the esterified acid part, or

(1) In this case, the final product will have a minimum fat content of 79·8 %.

— 150 g of stigmasterol ($C_{29}H_{48}O$ = Δ-5·22-stigmastene-3 beta-ol), at least 95 % pure, calculated on the product ready for incorporation, or

— 170 g of stigmasterol ($C_{29}H_{48}O$ = Δ-5·22-stigmastene-3 beta-ol), at least 85 % pure, calculated on the product ready for incorporation, with a maximum of 7·5 % of brassicasterol ($C_{28}H_{46}O$ = Δ-5·22-ergostene-3 beta-ol) and with a maximum of 4 % sitosterol ($C_{29}H_{50}O$ = Δ-5-stigmastene-3 beta-ol).

ANNEX II

Products to be incorporated into the concentrated butter (per tonne) where such concentrated butter is to be processd into formula B products

(second indent of Article 5 (2))

I. Either :

(a) — 250 g of 4 hydroxy-3 methoxybenzaldehyde obtained either from vanilla or from synthetic vanillin ; or

— 100 g of 4 hydroxy-3 methoxybenzaldehyde obtained exclusively from vanilla beans or integral extracts thereof (1), and

(b) 600 g of a compound containing at least 90 % of sitosterol and in particular 80 % of beta-sitosterol ($C_{29}H_{50}O$ = Δ-5-stigmastene-3 beta-ol), as well as a maximum of 9 % of campesterol ($C_{28}H_{48}O$ = Δ-5-ergostene-3 beta-ol) and 1 % of other sterols in traces, including stigmasterol ($C_{29}H_{48}O$ = Δ-5·22-stigmastene-3 beta-ol).

II. Or :

(a) 20 g of ethyl ester of beta-apo-8'-carotenic acid, in the form of a compound soluble in the butterfat, and

(b) 600 g of a compound containing at least 90 % of sitosterol, and in particular 80 % of beta-sitosterol ($C_{29}H_{50}O$ = Δ-5-stigmastene-3 beta-ol), as well as a maximum 9 % of campesterol ($C_{28}H_{48}O$ = Δ-5-ergostene-3 beta-ol) and 1 % of other sterols in traces including stigmasterol ($C_{29}H_{48}O$ = Δ-5·22-stigmastene-3 beta-ol) (2).

III. Or :

(a) 250 kg of refined granulated or powdered sugar, and

(b) 600 g of a compound containing at least 90 % of sitosterol and in particular 80 % of beta-sitosterol ($C_{29}H_{50}O$ = Δ-5-stigmastene-3 beta-ol) as well as a maximum 9 % of campesterol ($C_{28}H_{48}O$ = Δ-5-ergostene-3 beta-ol) and 1 % of other sterols in traces, including stigmasterol ($C_{29}H_{48}O$ = Δ-5·22-stigmastene-3 beta-ol).

(1) The method of analysis by means of which compliance with this provision is checked is to be the method applied by the official agencies of the Member State in which processing into finished products takes place.
(2) In this case, the final product will have a minimum fat content of 79·8 %.