COMMISSION REGULATION (EEC) No 1932/81

of 13 July 1981

on the granting of aid for butter and concentrated butter 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 the Act of Accession of Greece, and in particular Article 12 (3) thereof,

Having regard to Council Regulation (EEC) No 878/77 of 26 April 1977 on the exchange rates to be applied in agriculture [2], as last amended by Regulation (EEC) No 850/81 [3], and in particular Article 4 (3) thereof,

Whereas Council Regulation (EEC) No 1723/81 of 24 June 1981 establishing general rules relating to measures designed to maintain the level of use of butter by certain categories of consumer and industry [4], provides for the possibility of granting aid for butter and concentrated butter available on the market so as to enable those products to be purchased at a reduced price, in particular by manufacturers of pastry products and ice-cream;

Whereas the relatively small quantities of butter at present in public stocks will shortly lead to sales from public stocks being suspended by virtue of 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 605/81 [6]; whereas, in these circumstances, recourse should be had to Regulation (EEC) No 1723/81 to assist the industry in question;

Whereas to ensure that the aid is fixed at the level that is strictly necessary and to ensure effective monitoring of the quantities for which the aid is granted, the procedure of a standing invitation to tender should be applied; whereas, in other respects the system introduced by 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 [7], as last amended by Regulation (EEC) No 1250/81 [8], may for the most part be applied;

Whereas, however, the aid should only be granted in respect of butter meeting the top-grade requirements referred to in Article 1 (3) (b) of Council Regulation (EEC) No 985/68 of 15 July 1968 laying down general rules for intervention on the market in butter and cream [9], as last amended by the Act of Accession of Greece, and in respect of concentrated butter satisfying certain minimum requirements; whereas, moreover, the right to tender should be limited, for reasons of control, to those establishments which use butter either directly in the manufacture of pastry products or ice-cream or which produce concentrated butter to be used for processing into such products;

Whereas Article 4 (1) of Regulation (EEC) No 878/77 provides that, as regards the effects 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 653/68 on conditions for alterations to the value of the unit account used for the common agricultural policy [10] are to apply;

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

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, when he applies for aid, what amount he will receive, and in order to simplify control, the representative rate adopted should be the rate in force on the day for the submission of individual tenders;

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 106, 29. 4. 1977, p. 27.
(3) OJ No L 90, 4. 4. 1981, p. 1.
(4) OJ No L 172, 30. 6. 1981, p. 14.
(5) OJ No L 41, 16. 2. 1979, p. 1.
(6) OJ No L 61, 7. 3. 1981, p. 18.
(7) OJ No L 177, 14. 7. 1979, p. 40.
(8) OJ No L 126, 12. 5. 1981, p. 5.
(9) OJ No L 169, 18. 7. 1968, p. 1.
(10) OJ No L 188, 1. 8. 1968, p. 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

1. Special aid shall be granted for the use of butter and concentrated butter under the conditions laid down in this Regulation.

2. Special aid may be granted only in respect of :

(a) butter which, in the manufacturing Member State, corresponds to the definition and classification given in Article 1 (3) (b) of Regulation (EEC) No 985/68 and the packaging of which is marked accordingly, and

(b) concentrated butter meeting the quality requirements laid down in Annex I.

3. The amount of special aid shall be fixed in accordance with the standing tendering procedure opened by each intervention agency.

Article 2

1. Tenders may be submitted :

(a) as regards butter, only by those undertakings which give a written undertaking to process themselves, within the time limits referred to in paragraph 2, the butter referred to in Article 1 (2) (a) directly into the formula A or formula B products specified in Article 4 of Regulation (EEC) No 262/79 in accordance with the detailed rules laid down in Article 10 (2) of the said Regulation ;

(b) as regards concentrated butter, only by those approved undertakings which give a written undertaking :

— to manufacture themselves from cream or butter the concentrated butter referred to in Article 1 (2) (b) by incorporating simultaneously, according to the use to which it is to be put, the constituents specified in Article 5 (2) of and Annexes I and II to Regulation (EEC) No 262/79, in accordance with the detailed rules laid down in Article 5 (2) and (3) and Articles 6 and 7 of the said Regulation, and

— to process the concentrated butter or have it processed exclusively into the products listed in Article 4 of the said Regulation.

The undertakings referred to in (a) and in the first indent of (b) may ask an agent to act on their behalf.

2. The butter and concentrated butter referred to in Article 1 (2) (a) and (b) respectively must be processed into the products listed in Article 4 of Regulation (EEC) No 262/79 within a period of eight months calculated from the closing date for the submission of the individual tenders concerned.

The manufacture of the concentrated butter referred to in Article 1 (2) (b) must take place within a period of two months calculated from the closing date for the submission of the individual tenders concerned.

3. The provisions of Article 6 of Regulation (EEC) No 262/79 concerning packaging and of Articles 9 and 10 of the said Regulation concerning the approval and the obligations of the undertakings manufacturing concentrated butter shall apply *mutatis mutandis.*

Article 3

1. The intervention agencies shall issue an invitation to tender, indicating in particular :

(a) the procedure and the address for the submission of tenders ;

(b) the details relating to the lodging of security.

2. The 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 4

1. During the period of validity of the standing invitation to tender, the intervention agency shall issue individual invitations to tender.

2. The closing date for the submission of tenders in response to the first individual invitation shall be Tuesday 28 July 1981 at 12 noon.

3. The closing date for the submission of subsequent individual tenders shall be 12 noon on each second and fourth Tuesday of the month, except the fourth Tuesday in December. If the Tuesday is a public holiday, the closing date shall be 12 noon on the following working day.

Article 5

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

2. Tenders shall be submitted to the intervention agency in the Member State in which the operations referred to under Article 2 (1) (a) or (b), first indent, will take place.

3. Tenders shall state :

(a) the name and address of the tenderer and, where appropriate, the name and address of the agent referred to in the last subparagraph of Article 2 (1), and the address of the manufacturing unit where operations referred to under Article 2 (1) (a) or (b), first indent, will take place ;

(b) the quantities of butter or concentrated butter for which aid is requested, for each of the uses to which it is to be put (formula A and/or formula C or formula B) ;

(c) in the case of butter, its fat content ;

(d) the level of aid proposed, expressed per 100 kilograms of butter or concentrated butter in the currency of the Member State in which the tender is submitted, for each of the corresponding uses.

As regards concentrated butter, the level of aid shall relate to the product referred to in Article 1 (2) (b), not taking into account the constituents referred to in Article 2 (1) (b), first indent.

4. A tender shall not be valid unless :

(a) it relates to a quantity of butter or concentrated butter of at least three tonnes ;

(b) it is accompanied by the written undertaking referred to in Article 2 ;

(c) proof is furnished that, before expiry of the closing date for the submission of tenders, the tenderer has lodged the tendering security referred to in Article 6 in respect of the relevant individual invitation to tender.

No tender may be withdraw after the closing date referred to in Article 4 (2) and (3) for the submission of tenders in respect of the individual invitation concerned.

Article 6

1. The tendering security shall be 60 ECU per tonne of butter or concentrated butter.

2. The tendering 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 7

1. In the light of the tenders received in response to each individual invitation, and in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68, a maximum amount of aid, varying according to the use to which it is to be put (formula A and/or formula C or formula B) and according to the fat content in the case of butter, shall be fixed for butter and concentrated butter.

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

2. With regard to concentrated butter, at the same time as the maximum amount of aid is fixed and in accordance with the same procedure, the amount of the processing security designed to ensure that it is used in accordance with this Regulation shall be fixed per 100 kilograms by reference to the said maximum amount of aid.

3. The maximum amount of aid, the amount of the aid actually granted, and the amount of the security shall be converted into national currency at the representative rate applicable on the closing date for the submission of tenders for the individual invitation concerned.

Article 8

1. A tender shall be rejected if the aid proposed is higher than the maximum amount of aid fixed for the individual invitation to tender, taking into account the nature of the products, their proposed uses and the fat content of the butter concerned.

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

Article 9

1. Every tenderer shall immediately be notified by the intervention agency of the result of his tender.

2. Where a contract is awarded, this notification shall include the following :

(a) the information laid down in Article 5 (3) ;

(b) with regard to concentrated butter, the amount of the processing security ;

(c) the closing date for the processing of the butter or concentrated butter into the products laid down in Article 4 of Regulation (EEC) No 262/79, and with regard to concentrated butter, the closing date for its manufacture in accordance with Aricle 2 (1) (b), first indent ;

(d) the closing date for the submission of tenders.

Article 10

1. As regards concentrated butter, the processing security referred to in Article 7 (2) shall be lodged in accordance with the detailed rules laid down in Article 6 (2) and (3) within 30 days of the closing date for the submission of the individual tender concerned, and before manufacture of concentrated butter is started in accordance with Article 2 (1) (b), first indent.

2. From the start of :

(a) the manufacture referred to in paragraph 1 as regards concentrated butter ; and

(b) the processing referred to in Article 2 (1) (a) as regards butter,

and until the end of their processing into the products listed in Article 4 of Regulation (EEC) No 262/79, the products concerned shall be subject to customs control or to an administrative control offering equivalent guarantees.

3. The provisions of Article 2 (2) of Regulation (EEC) No 1687/76 shall apply to the control referred to in paragraph 2. Furthermore, as regards concentrated butter, the provisions of Articles 2 (3), 6 (2) and (3) and 7, 8, 10, 11 and 14 of the same Regulation and of Article 22 (3) of Regulation (EEC) No 262/79 shall apply.

The particulars to be entered in Sections 104 and 106 of the control copy shall be those specified in Annex II.

4. The Member State on whose territory the operations referred to in Article 2 (1) take place shall carry out the inspections provided for in Article 21 of Regulation (EEC) No 262/79.

Article 11

1. The aid referred to in Article 1 shall be paid to the successful tenderer or the agent acting on his behalf within 60 days from the date on which proof was furnished

(a) in the case of butter, that it satisfies the requirements referred to in Article 1 (2) (a) and that it has been processed into the products referred to in Article 2 (1) (a),

(b) in the case of concentrated butter, that the total quantity of the concentrated butter to which the tender relates has been manufactured in accordance with the first indent of Article 2 (1) (b),

except in cases of *force majeure* or in cases where administrative enquiries have been commenced concerning the entitlement to the aid. In such cases, payment shall be made only when entitlement to the aid has been accepted.

2. The provisions of Article 12 of Regulation (EEC) No 1687/76 concerning the provision of proof that the control requirements have been complied with shall apply.

3. The proof referred to in paragraph 1 shall be furnished within 18 months calculated from the closing date for the submission of the tenders in question.

4. As regards applications for payment of the aid in respect of butter, the total quantity to which the tender relates may be split up but may not, however, be less than the total quantity of butter used pursuant to this Regulation by the tenderer concerned during the month in question.

5. All supporting documents and the control report shall be sent to the department or agency, referred to in Article 4 of Regulation (EEC) No 729/70, responsible for payment of the aid.

Article 12

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 the closing date for the submission of tenders, as specified in Article 4 (2) and (3), or

(b) in the case of butter, did not, within the period prescribed, process the butter into the products referred to in Article 2 (1) (a), or

(c) in the case of concentrated butter, did not, within the period prescribed, lodge the processing security referred to in Article 7 (2).

2. The tendering security shall be released immediately for quantities in respect of which :

(a) no contract was awarded ;

(b) as regards butter, proof of its processing in accordance with Article 2 (1) (a) has been furnished in the period provided for in Article 11 (3) ;

(c) as regards concentrated butter, the processing security referred to in Article 7 (2) has been lodged.

3. As regards the processing security, the provisions of Articles 22 (4) and (5) and 23 of Regulation (EEC) No 262/79 shall apply.

Article 13

As regards the monetary compensatory amounts applicable to the concentrated butter referred to in this Regulation, the provisions of Article 24 of Regulation (EEC) No 262/79 shall apply.

Article 14

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

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

Done at Brussels, 13 July 1981.

For the Commission

The President

Gaston THORN

ANNEX I

Quality requirements for pure concentrated butter

Milk fat content : minimum 99·8 %

Moisture content and non-milk fat constituents : maximum 0·2 %

Free fatty acids : maximum 0·3 % (expressed as oleic acid)

Perioxide number : maximum 0·5 (in milliequivalents of active oxygen per kg)

Flavour : fresh

Smell : absence of extraneous odours

Neutralizing agents, antioxidants and preservatives : absent

ANNEX II

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

— Section 104 : 'Concentrated butter for processing (Regulation (EEC) No 1932/81)',
'Smørfedt til forarbejdning (forordning (EØF) nr. 1932/81)',
'Butterfett zur Verarbeitung (Verordnung (EWG) Nr. 1932/81)',
'Beurre concentré destiné à la transformation (règlement (CEE) n° 1932/81)',
'Burro concentrato destinato alla trasformazione (regolamento (CEE) n. 1932/81)',
'Boterconcentraat bestemd voor verwerking (Verordening (EEG) nr. 1932/81)',
'Συμπυκνωμένο βούτυρο προοριζόμενο γιά μεταποίηση (κανονισμός (ΕΟΚ) ἀριθ. 1932/81)';

— Section 106 : 1. The date of expiry of the period for submission of individual tenders referred to in Article 2 (2) of Regulation (EEC) No 1932/81).

2. 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 Nos 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,

— 'products 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.