COMMISSION REGULATION (EEC) No 1426/83

of 2 June 1983

amending Regulation (EEC) No 1844/77 on the granting by tender of special aid for skimmed-milk powder intended as feed for animals other than young calves and repealing Regulation (EEC) No 2306/79

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 1183/82 (2), and in particular Article 10 (3) thereof,

Whereas Commission Regulation (EEC) No 1844/77 (3), as last amended by Regulation (EEC) No 1726/79 (4), provided for the grant by tender of special aid for skimmed-milk powder to be used for feed for animals other than young calves, the purpose being to promote the disposal of skimmed-milk powder in this way and so mitigate a market situation of large stocks and poor outlets;

Whereas, following a drop in stock levels, application of Regulation (EEC) No 1844/77 was suspended by Regulation (EEC) No 2306/79 (5); whereas, in view of the present market situation for skimmed-milk powder, Regulation (EEC) No 1844/77 should be brought into operation once more and Regulation (EEC) No 2306/79 be repealed;

Whereas Council Regulation (EEC) No 986/68 (6), as last amended by Regulation (EEC) No 1187/82 (7), provided for the grant of special aid for skimmed-milk powder to be used in feeding animals; whereas the definition of skimmed-milk powder given in Article 1 of that Regulation treats skimmed-milk powder, buttermilk and buttermilk powder as equivalent to skimmed milk;

Whereas experience has shown that detection of whey in skimmed-milk powder is very difficult if the powder has been mixed with buttermilk; whereas, for control purposes in view of the high level of the aid, separate utilization of the two products should be prescribed for both denaturing and the manufacture of feedstuffs by direct incorporation of skimmed-milk powder to be used in feeding animals; whereas it is therefore necessary to make reference to certain requirements applying to skimmed-milk powder set out in Commission Regulation (EEC) No 625/78 (8), as last amended by Regulation (EEC) No 2680/82 (9);

Whereas, if Regulation (EEC) No 1844/77 is to be brought back into effect, the dates of publication of the notice of invitation to tender and of the first invitation to tender stated therein must be updated and so also must the references to the denaturing formulas given in the Annex to Commission Regulation (EEC) No 368/77 (10), as last amended by Regulation (EEC) No 765/83 (11), since they have been amended, and the reference to the provisions of Commission Regulation (EEC) No 1725/79 (12), as last amended by Regulation (EEC) No 852/83 (13);

Whereas, in view of the difficulties in implementing the control measures, on-the-spot supervision should be replaced by frequent unannounced visits supplemented by checks on accounts and commercial documents;

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 1844/77 is hereby amended as follows:

1. Article 1 (1) is replaced by the following:

'1. Without prejudice to the provisions set out below, special aid shall be granted for skimmed-milk powder that either:

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 140, 20. 5. 1982, p. 1.
(3) OJ No L 205, 11. 8. 1977, p. 11.
(4) OJ No L 199, 7. 8. 1979, p. 10.
(5) OJ No L 264, 20. 10. 1979, p. 19.
(6) OJ No L 169, 18. 7. 1968, p. 4.
(7) OJ No L 140, 20. 5. 1982, p. 6.
(8) OJ No L 84, 31. 3. 1978, p. 19.
(9) OJ No L 284, 7. 10. 1982, p. 15.
(10) OJ No L 52, 24. 2. 1977, p. 19.
(11) OJ No L 82, 31. 3. 1983, p. 82.
(12) OJ No L 199, 7. 8. 1979, p. 1.
(13) OJ No L 93, 13. 4. 1983, p. 8.

— meets the requirements set out at point 1 of Annex I to Regulation (EEC) No 625/78 (with the exception of the requirements given at (i) and (k)), these requirements having been checked by the methods set out at point 2 of Annex I and in Annex IV to that Regulation, or

— has been produced from buttermilk as defined at Article 1 (b) of Regulation (EEC) No 986/68.

The skimmed-milk powder specified in the first subparagraph :

— may have a fat content of more than 1,25 % but not more than 11 %,

— may have a water content of more than 4 %, in accordance with the conditions set out in paragraph 5.

The products specified in the first subparagraph may not be denatured or directly incorporated unless they are used separately.

The products given by denaturing and/or direct incorporation may, in addition to the products resulting from the operation, contain only one of the two products specified in the first subparagraph.'

2. Article 1 (4) is replaced by the following :

'4. No aid shall be granted for skimmed-milk powder which, when processed as specified in Article 9 (2), does not meet the terms of the definitions given in paragraph 1 and in particular contains one of the products used as a denaturing agent indicated in the Annex to Regulation (EEC) No 368/77 and in Article 2 of Regulation (EEC) No 1725/79.'

3. In Article 2 (2), '30 August 1977' is replaced by '31 May 1983'.

4. In Article 3 (2), '13 September 1977' is replaced by '13 June 1983'.

5. The first subparagraph of Article 4 (3) is replaced by the following :

'3. For each of the products specified in Article 1 (1), the tender shall include particulars as follows :

(a) the name and address of the tenderer ;

(b) the level of aid offered, expressed per 100 kilograms of skimmed-milk powder in the currency of the Member State in which the tender is submitted ;

(c) the quantity of skimmed-milk powder for which the tender for aid is made and which will be denatured within the time limit specified in Article 6 (2).

The quantity referred to at (c) may not be less than 50 tonnes.'

6. In Article 5 (1), 'five units of account' is replaced by '6 ECU'.

7. (a) Article 6 (1) is replaced by the following :

'1. In accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68, a maximum amount of aid expressed per 100 kiloggrams of each of the products specified in Article 1 (1) shall be fixed for each individual invitation to tender, account being taken of the minimum price valid under Regulaton (EEC) No 368/77 for the individual invitation to tender for the month concerned, of the situation on the markets in skimmed-milk powder and soya and of the quantities offered. It may also be decided under the abovementioned procedure to make no award.'

(b) The following paragraph 3 is added to Article 6 :

'3. The maximum aid, the aid actually granted and the amounts of security shall be converted into national currency using the representative rate applicable on the last day for the submission of tenders in response to the individual invitation to tender concerned.'

8. The following sub-paragraph is added to Article 8 (1) :

'The intervention agency may use telex provided that the message is accompanied by an acknowledgement slip.'

9. In Article 11 (2) (a), 'within the meaning of Article 4 of Regulation (EEC) No 990/72' is replaced by 'within the meaning of Article 4 of Regulation (EEC) No 1725/79'.

10. Article 13 (1) is replaced by the following :

'1. The competent authority of the Member State concerned shall be responsible :

— for checking that the denaturing referred to in the first indent of Article 9 (2) is correctly carried out, by an on-the-spot check at least once per day during the period when denaturing is being carried out,

— for checking that the direct incorporation referred to in the second indent of Article 9 (2) is correctly carried out, by frequent unannounced on-the-spot checks.

These checks shall be supplemented by checks on the record referred to in Article 12 and on the commercial documents of the undertaking.

Member States are authorized, for the period up to 31 March 1984, not to apply the frequency of control visits specified in the first indent, provided that they take supplementary control measures details of which are notified to the Commission before 1 July 1983.'

11. Article 13 (4) is replaced by the following:

'4. The cost of checking that denaturing or direct incorporation is correctly carried out shall be met by the undertaking concerned at a flat rate of 4 ECU per tonne of skimmed-milk powder.'

12. The second indent of Article 13 (5) is replaced by the following:

'— the denaturing or incorporation formula used (formulas I H to I L and II L to II U)'.

13. The fourth indent of Article 13 (5) is replaced by the following:

'— in the case of incorporation of products denatured using formulas given in paragraph 1 of the Annex to Regulation (EEC) No 368/77 that involve the use of copper, either the actual copper content or the maximum quantity of the product that may be used in feeds for animals other than young calves.'

14. In Article 13 (6), 'to the provisions of Regulation (EEC) No 990/72' is replaced by 'to the provisions of Regulation (EEC) No 1725/79'.

Article 2

Regulation (EEC) No 2306/79 is hereby repealed.

Article 3

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, 2 June 1983.

For the Commission

Poul DALSAGER

Member of the Commission