COMMISSION REGULATION (EEC) No 594/83

of 14 March 1983

continuing the measures referred to in Regulation (EEC) No 273/82 in respect of technical assistance for the development of the use and consumption of milk products of Community origin outside the Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1079/77 of 17 May 1977 on a co-responsibility levy and on measures for expanding the markets in milk and milk products (1), as last amended by Regulation (EEC) No 1189/82 (2), and in particular Article 4 thereof,

Whereas the technical assistance measures first carried out pursuant to Commission Regulation (EEC) No 273/82 (3) have proved an effective means of expanding the markets in milk products outside the Community ; whereas they should therefore be continued in the medium term ;

Whereas the organizations or undertakings possessing the necessary qualifications and experience should therefore be invited again to propose detailed programmes which these organizations would themselves carry out ;

Whereas, as regards the other arrangements, the main provisions of Regulation (EEC) No 273/82 may be repeated, taking into account relevant experience gained ;

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. Under the terms of this Regulation, encouragement shall be given to measures to develop and improve the use and consumption of milk and milk products of Community origin outside the Community through technical and/or commercial assistance in order to promote Community trade with the non-member countries concerned.

2. The measures referred to in paragraph 1 may only relate to technical assistance concerning the improvement of conditions :

— for marketing,

— for consumer information, and

— for publicity,

in favour of milk products of Community origin, irrespective of the form taken by the commercial operation.

3. The measures referred to in paragraph 1 may in no case concern the direct or indirect financing of investments (supplies of plant, deliveries of goods, remuneration of staff, etc.) upon the establishment of new factories or plants, or upon the extension or renovation of existing factories or plants used for the manufacture or processing of milk products in a third country.

However, if proof is furnished that such investments are made at the instigation of the authorities or of those concerned in the third country, the provision of the necessary know-how for this purpose may be regarded as a measure within the meaning of paragraph 1.

4. Measures liable to prejudice existing Community trade in milk products with the country concerned shall not be taken into consideration.

5. The measures referred to in the previous paragraphs shall be eligible only if they are begun after 31 March 1983 ; they must be completed within two years of the signature of the contract referred to in Article 5 (3) and in any case before 1 November 1985. However, in exceptional cases a longer period may be agreed in accordance with Article 5 (2) to ensure maximum effectiveness of the measure concerned.

6. The time limit fixed by paragraph 5 shall not prevent subsequent agreement to an extension of that limit where the party to a contract, before the fixed expiry date, makes the appropriate application to the competent authority and proves that, due to exceptional circumstances beyond his control, he is unable to respect the deadline originally stipulated.

Article 2

1. Measures referred to in Article 1 (1) shall be proposed and carried out by Community-based organizations or undertakings which :

(a) have the necessary qualifications and experience for carrying out the proposed measures ;

(1) OJ No L 131, 26. 5. 1977 p. 6.
(2) OJ No L 140, 20. 5. 1982, p. 8.
(3) OJ No L 28, 5. 2. 1982, p. 21.

(b) give suitable guarantees :

— safeguarding the interests of existing Community trade with the country or countries concerned, and

— to the effect that they will not make direct or indirect financial investments within the meaning of the first subparagraph of Article 1 (3).

2. The Community contribution shall be limited to 75 % of expenditure incurred for the measures under Article 1 (1).

3. The financing of general expenses incurred for the measures referred to in Article 1 (1) shall be limited to 2 % of the total approved cost.

Article 3

1. The parties referred to in Article 2 (1) shall be invited to transmit before 1 May 1983 to the competent authority appointed by their Member State, hereinafter called 'the competent authority', detailed proposals concerning the measures referred to in Article 1 (1).

If this date is not complied with, the proposals shall be regarded as null and void.

2. Further details for submission of proposals shall be as set out in the notice from the competent authorities published in *Official Journal of the European Communities* No C 54 of 13 March 1981, page 7.

Article 4

1. Complete proposals shall include :

(a) the name and address of the party concerned ;

(b) all details concerning the measures proposed, indicating the time required for completion, the expected results and any third parties which may be involved ;

(c) the price asked for carrying out these measures, net of tax, expressed in the currency of the Member State on whose territory the party concerned is established, giving an itemized breakdown of this amount and showing the corresponding financing plan ;

(d) the desired form of payment of the Community contribution in accordance with Article 7 (1) (a) or (b) ;

(e) the most recent report available on the party's activities, unless this is already in the possession of the competent authority.

2. Proposals shall be valid only where :

(a) they are submitted by a party fulfilling the conditions laid down in Article 2 (1) ;

(b) they are accompanied by an undertaking to comply with the provisions of this Regulation and the list of clauses and conditions referred to in Article 6.

Article 5

1. Before 1 July 1983 the competent authorities shall :

(a) examine all proposals submitted and any supporting documents to check that they are in the correct form and contain the information required. They shall ensure that the proposals comply with the provisions of Article 4 and shall ask applicants for further details if necessary ;

(b) compile a list of all the proposals received and send it to the Commission together with copies of each proposal and a reasoned opinion indicating whether or not the proposal conforms with the Regulation.

2. After consulting the groups concerned in the milk industry, and following examination of the proposals by the Management Committee for Milk and Milk Products in accordance with Article 31 of Regulation (EEC) No 804/68 (1), the Commission shall establish before 1 October 1983 a list of the proposals selected for financing.

3. The competent authorities shall conclude contracts before 1 November 1983 with those parties whose proposals have been selected.

The competent authorities shall for this purpose use the standard form contracts to be provided by the Commission.

4. The competent authority shall inform each applicant as soon as possible of the decision taken in respect of his proposal.

Article 6

1. On acceptance of a proposal in accordance with Article 5, a list of clauses and conditions shall be drawn up by the competent authority in at least two copies and signed by the competent authority and party concerned.

2. The list of terms and conditions shall form an integral part of the contract referred to in Article 5 (3) and shall :

(a) include the details referred to in Article 4 (1) or make reference to them ; and

(b) supplement these details, where necessary, by additional provisions resulting from the application of Article 5 (1) ;

(c) not modify the content of the proposal as selected for financing.

3. The competent authority shall send a copy of the contract and the list of clauses and conditions to the Commission without delay.

(1) OJ No L 148, 28. 6. 1968, p. 13.

4. The competent authority shall ensure compliance with the agreed conditions by means of on-the-spot checks within the Community.

Article 7

1. The competent authority shall pay to the party in question, in accordance with the choice indicated in the latter's proposal, either :

(a) within six weeks of the date of signature of the contract and the list of clauses and conditions, a single payment on account amounting to 60 % of the agreed Community contribution ; or

(b) at four-month intervals, four equal instalments each amounting to 20 % of the agreed Community contribution, the first such instalment being paid within six weeks of the date of signature of the contract and the list of clauses and conditions.

However, while a contract is being performed, the competent authority may :

— defer payment of an instalment either wholly or in part where it finds, in particular during the checks referred to in Article 6 (4), irregularities in carrying out the measures concerned or a substantial interval between the due date for payment of the instalment and the date when the party concerned will actually incur the forecast expenditure,

— in exceptional cases, advance payment of an instalment if the party concerned submits a reasoned request and shows that he must incur a substantial part of the expenditure significantly earlier than the date laid down for payment of the Community contribution towards the said expenditure.

2. The payment of each instalment shall be conditional upon the lodging with the competent authority of a security equal to the amount of the instalments, plus 10 %.

3. The release of securities and payments of the balance by the competent authority shall be subject to :

(a) confirmation by the competent authority that the party concerned has fulfilled his obligations as laid down in the contract and in the list of clauses and conditions ;

(b) transmission to the competent authority of the report referred to in Article 8 (1), and verification of the details contained in this report by the competent authority.

However, on reasoned request by the party concerned, the balance can be paid after the measure has been completed, and after submission of the report referred to in Article 8, and on condition that securities equal to the total amount of the Community contribution plus 10 % have been lodged ;

(c) the competent authority finding that the party concerned, or any third party named in the contract, has spent his own contribution for the purposes laid down.

4. In so far as the conditions set out in paragraph 3 are not fulfilled, the securities shall be forfeit. In this event, the amount in question shall be deducted from European Agricultural Guidance and Guarantee Fund, Guarantee Section, expenditure, and more particularly from that arising out of the measures referred to in Article 4 of Regulation (EEC) No 1079/77.

Article 8

1. Each party responsible for one of the measures referred to in Article 1 (1) shall submit to the competent authority, within four months of the final date fixed in the contract for completion of the measures, a detailed report on the utilization of the Community funds allocated and on the foreseeable results of the measures in question, in particular concerning the evolution of the sales of milk and milk products.

2. On performance of each contract, the competent authority shall send the Commission a statement to this effect and a copy of the final report.

Article 9

This Regulation shall enter into force on the third day following 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, 14 March 1983.

For the Commission

Poul DALSAGER

Member of the Commission