COMMISSION REGULATION (EEC) No 2409/86

of 30 July 1986

on the sale of intervention butter intended for incorporation in compound feedingstuffs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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 (1), as last amended by Regulation (EEC) No 3790/85 (2), and in particular Article 7a thereof,

Having regard to Council Regulation (EEC) No 1677/85 of 11 June 1985 concerning monetary compensatory amounts in agriculture (3), as last amended by Regulation (EEC) No 1013/86 (4), and in particular Article 12 thereof,

Whereas the situation on the market in butter in the Community is characterized by the existence of stocks formed as the result of intervention on the market in butter under Article 6 (1) of Council Regulation (EEC) No 804/68 (5), as last amended by Regulation (EEC) No 1335/86 (6), during previous milk years;

Whereas it is not possible to dispose of all the butter in store on normal terms; whereas, in order to bring stocks down to an acceptable level, measures liable to favour the disposal of the oldest butter should be taken;

Whereas the disposal of butter at a reduced price for the manufacture of compound feedingstuffs in the Community constitutes such a measure;

Whereas, in order to ensure equality of access to the butter for the undertakings concerned, the standing invitation to tender procedure should be applied; whereas, in addition, sale of the butter at a predetermined price should be provided for in parallel to sale by tender, in order to ensure that the undertakings concerned are still able to obtain supplies outside the tendering procedure;

Whereas the butter must be sold at a price which enables it to be competitive with the oils and fats normally used in aminal feed; whereas it is therefore necessary to adopt measures guaranteeing that the butter is not diverted from its intended use; whereas, so that the use of the butter can be effectively monitored, it is appropriate to restrict the possibility of tendering to undertakings which meet certain requirements and which undertake to abide by the obligations guaranteeing that the butter will be used as intended;

Whereas, given the technical requirements, the butter must be processed into concentrated butter before its incorporation in compound feedingstuffs; whereas such processing must take place under on-the-spot supervision; whereas, in order to ensure that the concentrated butter is used as intended, the procedure for supervising its incorporation in compound feedingstuffs should be different depending on whether the products referred to in Article 6 (2) of this Regulation have been added;

Whereas, as regards the packaging of compound feedingstuffs, reference should be made to certain provisions of Commission Regulation (EEC) No 1725/79 of 26 July 1979 on the rules for granting aid to skimmed milk processed into compound feedingstuffs and skimmed-milk powder intended for feed for calves (7), as last amended by Regulation (EEC) No 3812/85 (8), and to Council Directive 79/373/EEC of 2 April 1979 on the marketing of compound feedingstuffs (9), as last amended by Regulation (EEC) No 3768/85 (10);

Whereas in particular, butter purchased under this Regulation must not be diverted to the uses provided for in 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 (11), as last amended by Regulation (EEC) No 665/86 (12), in 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 (13), as last amended by Regulation (EEC) No 3812/85 (14), and in Commission Regulation (EEC) No 3143/85 of 11 November 1985 on the sale at reduced prices of intervention butter intended for direct consumption in the form of concentrated butter (15), as last amended by Regulation (EEC) No 1325/86 (16);

(1) OJ No L 169, 18. 7. 1968, p. 1.
(2) OJ No L 367, 31. 12. 1985, p. 5.
(3) OJ No L 164, 24. 6. 1985, p. 6.
(4) OJ No L 94, 9. 4. 1986, p. 18.
(5) OJ No L 148, 28. 6. 1968, p. 13.
(6) OJ No L 119, 8. 5. 1986, p. 19.
(7) OJ No L 199, 7. 8. 1979, p. 1.
(8) OJ No L 368, 31. 12. 1985, p. 3.
(9) OJ No L 86, 6. 4. 1979, p. 30.
(10) OJ No L 362, 31. 12. 1985, p. 8.
(11) OJ No L 41, 16. 2. 1979, p. 1.
(12) OJ No L 66, 8. 3. 1986, p. 38.
(13) OJ No L 191, 14. 7. 1981, p. 6.
(14) OJ No L 368, 31. 12. 1985, p. 3.
(15) OJ No L 298, 12. 11. 1985, p. 9.
(16) OJ No L 154, 5. 6. 1986, p. 20.

Whereas 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 (1), as last amended by Regulation (EEC) No 1812/86 (2), is applicable and its Annex must therefore be supplemented accordingly;

Whereas, as regards financing, the expenditure occasioned by this additional disposal operation should be regarded as arising from one of the measures referred to in the first indent of Article 4 (2) of 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 (3), as last amended by Regulation (EEC) No 1338/86 (4);

Whereas the Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Butter bought in under Article 6 (1) of Regulation (EEC) No 804/68 and taken into storage before 1 July 1983 shall be sold under the conditions provided for in this Regulation for the purpose of incorporation in compound feedingstuffs.

Article 2

Without prejudice to Title VII providing for sale at a predetermined price, the butter shall be sold by means of a standing invitation to tender issued by each intervention agency for the relevant quantities of butter held by it.

TITLE I

Conditions relating to the tenderer

Article 3

Only the following may qualify as tenderers: undertakings manufacturing compound feedingstuffs or mixtures intended for the manufacturing of such feedingstuffs, undertakings manufacturing concentrated butter and undertakings manufacturing fatty substances which supply the food industry. Such undertakings may cause an agent to act on their behalf.

Article 4

The tenderer may not submit a tender unless he gives a written undertaking to process the butter or have it processed within the Community into concentrated butter with a view to its incorporation, within 120 days of the closing date for the submission of tenders in response to the individual invitation to tender referred to in Article 17, into compound feedingstuffs as defined in Article 2 (b) of Directive 79/373/EEC, in accordance with the conditions laid down in Titles II and III.

Article 5

In the event of subsequent resale of the butter after processing into concentrated butter, whether or not the products referred to in Article 6 (2) have been added, the tenderer shall undertake to have included in the sales contract the requirement that the butter be incorporated in compound feedingstuffs as defined in Article 2 (b) of Directive 79/373/EEC within the period specified in Article 4 and in accordance with Title III, and the requirement to submit to the supervisory measures referred to in Article 14 (2).

TITLE II

Conditions relating to the processing of butter into concentrated butter

Article 6

1. The total quantity of butter awarded must be processed, to the exclusion of any other treatment or addition and without prejudice to the provisions of paragraph 2, into concentrated butter with a fat content of not less than 99,8 % in an establishment approved for that purpose in accordance with paragraph 3 by the Member State on whose territory the said establishment is situated and must yield at least 100 kilograms of concentrated butter per:

— 122,5 kilograms of butter used where the fat content of the butter sold is 82 % or more,

— 125,5 kilograms of butter used where the fat content of the butter sold is less than 82 %.

2. During processing of the butter into concentrated butter, to the exclusion of any other treatment except neutralization or deodorization or addition except antioxidants and in the same establishment, the following may be incorporated in and distributed evenly throughout 100 kilograms of concentrated butter after these possible treatments or additions:

(a) 10 grams of 4 hydroxy-3 methoxybenzaldehyde obtained from synthetic vanillin; and

(b) 1,1 kilograms of triglycerides of pelargonic (n-nonanoic) acid, at least 95 % pure, calculated as triglycerides on the product ready for incorporation, with a maximum acid value of 0,5 %, a saponification number between 325 and 340, and a 95 % minimum content of pelargonic acid in the esterified acid part.

(1) OJ No L 190, 14. 7. 1976, p. 1.
(2) OJ No L 157, 12. 6. 1986, p. 43.
(3) OJ No L 131, 26. 5. 1977, p. 6.
(4) OJ No L 119, 8. 5. 1986, p. 27.

The competent agency shall ensure that the quality and characteristics, including the degree of purity, of the products to be incorporated in concentrated butter have been complied with.

3. Approval as an establishment within the meaning of paragraph 1 may only be granted to an establishment :

(a) which has the appropriate technical facilities to process a quantity of at least 5 tonnes of butter per month ;

(b) which has premises on which any stocks of non-butter fat can be stored separately and identified as such ;

(c) which undertakes to keep continuous records of the origin of the butter used, the quantities employed, the quantities and composition of the concentrated butter, the included products referred to in paragraph 2 where appropriate, the date on which the processed product leaves the establishment and the names and adresses of purchasers ; and

(d) undertakes to forward its manufacturing programme in accordance with the arrangements decided on by the Member State concerned to the agency responsible for the supervision referred to in Article 14.

4. If the establishment also processes butter sold under Regulation (EEC) No 262/79 or Regulation (EEC) No 3143/85 or which may qualify for the aid provided for in Regulation (EEC) No 1932/81, it must also undertake :

— to keep the records referred to in paragraph 3 (c) as a separate entity,

— to process successively the butter sold under Regulation (EEC) No 262/79 or Regulation (EEC) No 3143/85 or which may qualify for the aid under Regulation (EEC) No 1932/81 and the total quantity of butter purchased under this Regulation and stored on the premises of the establishment. However, at the request of the party concerned, the Member States may agree to waive this obligation if the establishment has premises ensuring that the butter stocks in question can be stored separately and identified.

5. Approval shall be withdrawn in the event of failure to comply with this Article. Approval may also be withdrawn where the undertaking concerned is found not to have complied with any other obligation arising from this Regulation.

Article 7

1. The butter referred to in Article 1 shall remain in its original wrapping until it is processed into concentrated butter.

It shall be accompanied by a list of packages enabling the butter to be identified.

2. The wrappings of butter removed from storage shall bear one or more of the following statements in clear and legible print :

— Matequilla destinada a ser transformada en mantequilla concentrada e incorporada en piensos compuestos para animales — Reglamento (CEE) nº 2409/86

— Smør bestemt til forarbejdning til koncentreret smør og iblanding i foderblandinger — forordning (EØF) nr. 2409/86

— Butter zur Verarbeitung zu Butterfett und zur Beimengung in Mischfutter — Verordnung (EWG) Nr. 2409/86

— Βούτυρο που προορίζεται να μεταποιηθεί σε συμπυκνωμένο βούτυρο και να ενσωματωθεί στις σύνθετες ζωοτροφές — Κανονισμός (ΕΟΚ) αριθ. 2409/86

— Butter for processing into concentrated butter and incorporation in compound feedingstuffs — Regulation (EEC) No 2409/86

— Beurre destiné à être transformé en beurre concentré et incorporé dans des aliments composés pour animaux — règlement (CEE) nº 2409/86

— Burro destinato ad essere trasformato in burro concentrato ed incorporato negli alimenti composti per animali — regolamento (CEE) n. 2409/86

— Boter bestemd om tot boterconcentraat te worden verwerkt en in mengvoeder te worden bijgemengd — Verordening (EEG) nr. 2409/86

— Manteiga destinada a ser transformada em manteiga concentrada e incorporada em alimentos compostos para animais — Regulamento (CEE) nº 2409/86.

Article 8

If the operations for the incorporation of the concentrated butter, whether in pure form or in the form of a mixture of fatty substances, in compound feedingstuffs or in a mixture to be manufactured into such feedingstuffs, on the one hand, and for processing into concentrated butter, on the other, are not carried out in the same place, the concentrated butter shall be transported by tanker or container sealed by the competent authorities, bearing in letters at least 5 cm high one or more of the following statements, as appropriate :

— Mantequilla concentrada (o mezcla de materias grasas), destinada exclusivamente a la incorporación en los piensos compuestos para animales — Reglamento (CEE) nº 2409/86

— Koncentreret smør eller fedtblandinger bestemt udelukkende til iblanding i foderblandinger — forordning (EØF) nr. 2409/86

— Reines Butterfett oder Fettmischung ausschließlich zur Beimengung in Mischfutter — Verordnung (EWG) Nr. 2409/86

— Συμπυκνωμένο βούτυρο (ή μείγματα λιπαρών ουσιών) που προορίζεται αποκλειστικά για ενσωμάτωση στις σύνθετες ζωοτροφές — Κανονισμός (ΕΟΚ) αριθ. 2409/86

— Concentrated butter, (or mixture of fatty substances) intended exclusively for incorporation in compound feedingstuffs — Regulation (EEC) No 2409/86

— Beurre concentré (ou mélange de matières grasses), destiné exclusivement à l'incorporation dans les aliments composés pour animaux — règlement (CEE) n° 2409/86

— Burro concentrato o miscela di materie grasse, destinato esclusivamente all'incorporazione negli alimenti composti per animali — regolamento (CEE) n. 2409/86

— Boterconcentraat (of geval mengsel van oliën en vetten) uitsluitend bestemd voor bijmenging in mengvoeder — Verordening (EEG) nr. 2409/86

— Manteiga concentrada (ou mistura de matérias gordas) destinada exclusivamente à incorporação nos alimentos compostos para animais — Regulamento (CEE) nº 2409/86.

Where the products referred to in Article 6 (2) have been added to the concentrated butter, it shall not be necessary to seal the tankers or containers.

TITLE III

Conditions relating to incorporation in compound feedingstuffs

Article 9

1. Compound feedingstuffs within the meaning of this Regulation shall be the products defined in Article 2 (b) of Directive 79/373/EEC.

The concentrated butter may previously be mixed with other fatty substances or be incorporated in a mixture intended for the manufacture of compound feedingstuffs.

2. Without prejudice to the application of Article 10 and to the provisions of Directive 79/373/EEC, compound feedingstuffs shall be packed in bags or other packaging or other closed containers containing not more than 50 kilograms on which shall be printed, in clearly legible characters, the butterfat content of the finished product and the information specified in Article 4 (2) of Regulation (EEC) No 1725/79 where the product in question meets the requirements laid down in Article 4 (1) of that Regulation.

3. In the case of a mixture intended for the manufacture of compound feedingstuffs, the package containing the mixture shall bear in clearly legible characters the words : 'Regulation (EEC) No 2409/86' and, where appropriate, the statements and information specified in Article 4 (4) of Regulation (EEC) No 1725/79.

Article 10

The provisions of Article 9 (2) shall not apply to compound feedingstuffs delivered by tanker or container to a farm or a fattening concern which uses these compound feedingstuffs under the conditions laid down in Article 11.

Article 11

1. When compound feedingstuffs are delivered by tanker or container the following provisions shall apply :

(a) the undertaking manufacturing the compound feedingstuffs shall, on application, be authorized to use this form of transport by the competent agency of the Member State on whose territory it is established ;

(b) delivery shall be under the administrative supervision of the competent authority.

2. In the case referred to in paragraph 1 the processing security referred to in Article 21 (2) shall be released only when the undertaking has supplied the competent agency with supporting documents establishing that delivery was effectively made.

Article 12

1. Where delivery by tanker or container as referred to in Article 10 takes place in a Member State other than the Member State of manufacture, proof of delivery shall be furnished by production of the control copy referred to in Article 10 of Commission Regulation (EEC) No 223/77 (1).

2. Sections 101, 103 and 104 of the control copy shall be completed. Section 104 shall be completed by deleting as appropriate and entering one of the following under the second indent :

— Aplicación del Reglamento (CEE) nº 2409/86 — piensos compuestos para animales destinados a las explotaciónes agrícolas, de cría o de engorde que los utilicen (con sus nombres y direcciones)

— Anvendelse af forordning (EØF) nr. 2409/86 — foderblandinger til anvendelse på en landbrugsbedrift, en opdrætnings- eller en opfedningsvirksomhed (angivelse af navn og adresse)

— Anwendung der Verordnung (EWG) Nr. 2409/86 — für den landwirtschaftlichen bzw. Zucht- oder Mastbetrieb bestimmtes Mischfutter (mit seinem Namen und seiner Anschrift)

— Εφαρμογή του κανονισμού (ΕΟΚ) αριθ. 2409/86 — σύνθετες ζωοτροφές προοριζόμενες για γεωργική εκμετάλλευση, εκμετάλλευση εκτροφής ή εκμετάλλευση πάχυνσης που χρησιμοποιεί σύνθετες ζωοτροφές (με το όνομα και τη διεύθυνση)

— Pursuant to Regulation (EEC) No 2409/86 — compound feedingstuffs intended for a farm or rearing or fattening concern using compound feedingstuffs (with the name and address)

(1) OJ No L 38, 9. 2. 1977, p. 20.

— Application du règlement (CEE) n° 2409/86 — aliments composés pour animaux destinés aux exploitations agricoles d'élevage ou d'engraissement utilisatrice (avec ses nom et adresse)

— Applicazione del regolamento (CEE) n. 2409/86 — alimenti composti per animali destinati all'azienda agricola o al centro d'ingrasso utilizzatori (con nome e indirizzo)

— Toepassing van Verordening (EEG) nr. 2409/86 — voor gebruik op het landbouwbedrijf of de veefokkerij of de veemesterij (met naam en adres) bestemd mengvoeder

— Aplicação do Regulamento (CEE) nº 2409/86 — Alimentos compostos para animais destinados à exploração agrícola ou exploração de pecuária ou de engorda utilizadoras (com o nome e endereço).

Article 13

1. Compound feedingstuffs may only be produced in an undertaking approved for that purpose by the competent agency of the Member State on whose territory manufacture takes place.

2. Approval shall be granted to undertakings which have suitable technical facilities and employ administrative and accounting methods which make it possible to satisfy the provisions laid down in this Regulation.

Approval shall be withdrawn if these conditions cease to exist; it may be withdrawn if it is found that the undertaking concerned has not complied with an obligation arising from this Regulation.

3. The undertakings as referred to in paragraph 1 shall continuously keep accounts, as determined by the competent agency in each Member State, which in respect of each batch shall show:

(a) the nature and origin of the raw materials used;

(b) the quantities of fatty substances used and their composition;

(c) the quantities, the composition and the butterfat content of the products manufactured;

(d) the date on which these products left the undertaking supported by reference to delivery notes and invoices.

For the purposes of this Article, 'batch' shall mean the quantity of compound feedingstuffs of homogeneous quality produced by continuous process at a single manufacturing plant.

TITLE IV

Supervisory measures

Article 14

In order to ensure that the provisions of this Regulation are complied with, Member States shall take the following supervisory measures:

1. During the processing of the butter into concentrated butter and any addition of the products referred to in Article 6 (2), the competent agency shall carry out frequent and unannounced on-the-sport inspections based on the establishment's manufacturing programme as referred to in Article 6 (3) (d).

The said inspections shall relate to the conditions of manufacture and the quality and composition of the product obtained by reference to the butter used. They shall entail the taking of samples of concentrated butter and, where appropriate, of other fatty substances used for each batch.

The inspections shall be accompanied periodically, according to the quantities processed, by a thorough inspection of the records and verification of compliance with the conditions laid down for the approval of the establishment.

For the purposes of this Article, 'batch' shall mean the quantity of concentrated butter covered by a tender as provided for in Article 19 (2), of homogeneous quality, processed and produced by continuous process at a single manufacturing plant.

2. The arrangements for supervising the utilization of concentrated butter in the manufacture of compound feedingstuffs, within the meaning of Article 9 (1), shall satisfy at least the following requirements:

(a) inspection of the undertaking concerned shall be carried out on-the-spot and shall relate in particular to the conditions of manufacture as established by:

— taking of samples,

— examination of the fatty substances used with a view to determining their composition,

— verification of the composition of the compound feedingstuffs manufactured and their butterfat content,

— inspection of products on intake and dispatch.

The tolerances provided for in the provisions adopted in accordance with Directive 79/373/EEC shall not apply.

Such inspection shall be performed:

— on each batch, in the case of the use of concentrated butter, where the products referred to in Article 6 (2) have not been added,

— frequently and unannounced, by reference to the manufacturing programme, at least once every fourteen days of manufacture, in the case of the use of concentrated butter where the products referred to in Article 6 (2) have been added;

(b) the inspection referred to in (a) shall be accompanied at intervals, according to the quantities manufactured, by a thorough inspection and random checks on the commercial documents and accounts referred to in Article 13 (3).

Article 15

The following point and related note are hereby added to Part II of the Annex to Regulation (EEC) No 1687/76, 'Products intended for a use and/or destination other than that referred to in Part I':

'38. Commission Regulation (EEC) No 2409/86 of 30 July 1986 on the sale of intervention butter intended for incorporation in compound feedingstuffs (38)

On the dispatch of butter in its natural state intended for concentration

— Section 104:

For processing into concentrated butter and later incorporation in compound feedingstuffs — Regulation (EEC) No 2409/86;

— Section 106:

The date before which the concentrated butter must be incorporated in compound feedingstuffs.

On the dispatch of butter after concentration and with the addition of the products referred to in Article 6 (2) of Regulation (EEC) No 2409/86

— Section 104:

For processing into compound feedingstuffs — Regulation (EEC) No 2409/86;

— Section 106:

The date before which the concentrated butter must be incorporated into compound feedingstuffs.

On the dispatch of concentrated butter which has been mixed with other fatty substances:

— Section 104:

For later incorporation in compound feedingstuffs — Regulation (EEC) No 2409/86;

— Section 106:

The date before which the concentrated butter must be incorporated in compound feedingstuffs;

— Section 107:

Number and date of the analysis report for the mixture referred to in Section 104.

The analysis report referred to in Section 107 shall be authenticated by the competent authorities and reference made to the number and registration date of the T 5.

(38) OJ No L 208, 31. 7. 1986, p. 29.'

TITLE V

Tendering procedure

Article 16

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

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

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

(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 17

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 tenders in response to each individual invitation shall expire at 12 noon each second Tuesday of the month and for the first time on 12 August 1986. Where the Tuesday is a public holiday, the period shall be extended to 12 noon on the first working day following.

Article 18

1. The intervention agency shall update and make available to interested parties on request a list of cold stores as referred to in Article 16 (1) (b) used to store the oldest butter for sale by tender, and the quantities of butter in each store. The intervention agency shall also publish the updated list at regular intervals in an appropriate form to be specified in the notice of invitation to tender provided for in Article 16.

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

Article 19

1. Interested parties shall participate in special invitations to tender either by lodging their written tender with the intervention agency against an acknowledgement of receipt or by registered letter sent to the intervention agency. Intervention agencies may authorize the use of telex or telecopier.

2. The tender shall state :

(a) the name and address of the tenderer ;

(b) the capacity in which he is submitting a tender in accordance with Article 3 ;

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

(d) the price offered per 100 kilograms of butter having the fat content required, exclusive of internal taxes, ex cold store, expressed in the currency of the Member State in which the butter is stored ;

(e) the cold store where the butter is located 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 cold stores mentioned.

A tender shall relate only to butter of a single fat content (82 % or more, or less than 82 %).

3. A tender shall not be valid unless it relates to at least 3 tonnes. However, if the quantity available in a store is less than 3 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 Articles 4 and 5 ;

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

(c) evidence 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 20 in respect of the relevant individual invitation to tender.

5. No tender may be withdrawn after the deadline referred to in Article 17 (2) for the submission of tenders in response to the individual invitation to tender concerned. However, the tenderer may stipulate that where the price contained in this bid exceeds the minimum selling price fixed for the particular tender concerned by more than 2 ECU per 100 kilograms, his bid should be considered to be withdrawn and that he undertakes to purchase during the sales period beginning on the third Tuesday of the same month, under the conditions laid down in Article 26, a quantity equivalent to that shown in the bid and to remove it from a store which may be different from that specified in the bid.

Article 20

1. Under this Regulation the maintenance of the tender after the expiry of the deadline for the submission of tenders and the payment of the price within the period laid down in Article 24 (2) shall constitute principal requirements whose fulfilment shall be ensured by the lodging of a tendering security of 40 ECU per tonne.

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

However, if it is indicated in the tender that the processing of the butter into concentrated butter is to take place in a Member State other than the selling Member State, the security may be lodged with the competent authority designated by that other Member State, which shall supply the evidence referred to in Article 19 (4) (c) to the tenderer. In such case the selling intervention agency shall inform the competent authority of the other Member State of the particulars giving rise to the release or the forfeiture of the security.

Article 21

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.

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 prices are fixed and under the same procedure, the amount per 100 kilograms of the processing security to guarantee fulfilment of the principal requirements concerning the processing of the butter into concentrated butter and, where appropriate, the addition of the products referred to in Article 6 (2) and its incorporation in compound feedingstuffs shall be fixed by reference to the difference between the intervention price of the butter and the minimum prices fixed.

3. The minimum selling price referred to in paragraph 1, the price to be paid by successful tenderers and the amount of the processing security shall be converted into national currency using the representative rate applicable on the closing day for the submissions of tenders in response to the individual invitation to tender concerned.

Article 22

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 fat content of the butter in question.

2. Without prejudice to paragraph 1, a contract shall be awarded to the tenderer who offers the highest price. 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 the price which 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 cold store in question, a contract shall be awarded to the tenderer only in respect of the quantity available.

However, by way of derogation from Article 19 (2), the intervention agency may, in agreement with the tenderer, indicate other stores in order to reach the quantity specified in the tender.

4. Where acceptance of two or more tenders offering the same price would lead to contracts being awarded for more than the quantity available, the awards 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 3 tonnes, awards shall be made by drawing lots.

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

TITLE VI

Outcome of the tendering procedure

Article 23

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

2. The successful tenderer shall, before removing the butter and within the period specified in Article 24 (2), pay the intervention agency an amount corresponding to his tender for each quantity which he intends to remove from store.

3. Except in cases of *force majeure,* where the successful tenderer has not made payment within the specified period, the tendering security referred to in Article 20 (1) shall be forfeited and the sale shall be cancelled in respect of the ramaining quantities.

Article 24

1. When the amount referred to in Article 23 (2) has been paid and the securities referred to in Article 21 (2) and (3) have been lodged in accordance with Article 13 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 cold store where it is stored ;

(c) the final date for taking delivery ;

(d) the closing date for the submission of tenders in response to the individual invitation to tender under which the butter was sold.

2. The successful tenderer shall remove the butter allocated to him within 24 days of the closing date for the submission of tenders. The butter may be removed by instalments.

Where the payment referred to in Article 23 (2) has been made without the butter having been removed 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).

TITLE VII

Sale at a predetermined price

Article 25

Butter as referred to in Article 1 shall be sold at a predetermined price under the conditions set out below.

Article 26

1. Purchase contracts :

— may be concluded with any intervention agency holding butter as referred to in Article 1 during the period beginning on the third Tuesday of each month and ending on the first Tuesday of the following month ;

— shall comply with Titles I, II, III and IV and with Article 21 (2) and (3).

The period of 120 days referred to in Article 4 shall run from the date on which the contract is concluded.

2. The butter shall be sold :

(a) in quantities of not less than three tonnes. However, where the quantity available in a store is less than three tonnes, the purchase contract may be concluded for that quantity ;

(b) ex store at a price equal to the minimum selling price fixed, in accordance with Article 21 (1), in respect of the individual invitation to tender immediately preceding the period of sale, plus 2 ECU per 100 kilograms.

3. Purchase applications reaching the intervention agency on the same day shall be considered as having been submitted at the same time. Where acceptance of these applications would lead to the quantity available in a store being exceeded, the intervention agency shall allocate this quantity in proportion to the quantities shown in the abovementioned purchase applications.

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

Article 27

1. On the day on which the contract is concluded the purchaser shall :

— furnish evidence that he has lodged the processing security referred to in Article 21 (2) as provided for in Article 13 of Regulation (EEC) No 1687/76,

— pay the purchase price for the butter.

2. The intervention agency shall issue a removal warrant stating :

— the quantity of butter in respect of which the conditions of paragraph 1 have been satisfied,

— the store where it is located,

— the day on which the contract was concluded,

— the final date for taking delivery.

The purchaser shall remove the butter sold within 24 days of the day on which the contract was concluded. The butter may be removed by instalments.

The purchaser shall bear the cost of storing the butter with effect from the day following the final date for taking delivery of the butter.

TITLE VIII

General provisions

Article 28

Commission Regulation (EEC) No 2220/85 [1] shall apply, save as otherwise specificially provided in the context of this Regulation.

Article 29

The monetary compensatory amounts applicable in respect of butter shall be equal to the monetary compensatory amounts fixed under Regulation (EEC) No 1677/85 multiplied by the coefficient given in Annex I, Part 5 to the Commission Regulation fixing the monetary compensatory amounts.

Article 30

For the purposes of financing, this measure shall constitute a measure as referred to in the first indent of Article 4 (2) of Regulation (EEC) No 1079/77.

Article 31

Member States shall notify the Commission, before the tenth of each month at the latest, of the quantities of butter which, during the previous month :

— were awarded under the tendering procedure,

— were the subject of a sales contract,

— were removed from store, broken down according to form of sale.

Article 32

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, 30 July 1986.

For the Commission

Frans ANDRIESSEN

Vice-President

[1] OJ No L 205, 3. 8. 1985, p. 5.