COMMISSION REGULATION (EEC) No 4177/88

of 30 December 1988

amending Regulation (EEC) No 756/70 on grantng aid for skimmed milk processed into casein and caseinates

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 the Council of 27 June 1968 on the common organization of the market in milk and milk products [1], as last amended by Regulation (EEC) No 1109/88 [2], and in particular Article 11 (3) thereof,

Whereas Article 2 (4) of Regulation (EEC) No 987/68 of the Council of 15 July 1968 laying down general rules for granting aid for skimmed milk processed into casein or caseinates [3], as last amended by Regulation (EEC) No 3554/88 [4], provides that aid may be restricted to casein or caseinates for specific uses if the market situation so dictates ; whereas at present the use of casein or caseinates in the manufacture of certain milk products threatens to cause serious disturbance to the market and may also lead to duplicate aid payments ; whereas Commission Regulation (EEC) No 756/70 [5], as last amended by Regulation (EEC) No 1544/88 [6], should be amended to establish the circumstances in which such aid may be granted and the conditions to apply thereto ;

Whereas provision must be made for a security to be given at the time the aid is paid in order to ensure that the casein or caseinates will be exported or delivered for use within the Community, to the exclusion of use in the manufacture of certain end products ; whereas the requirement as to the destination of the casein or caseinates may, under certain conditions and in cases where the final user does not manufacture milk products, be limited to the delivery stage ;

Whereas, given the trend of casein prices on the international market, the level of the aid provided for in Article 2 (1) of Regulation (EEC) No 756/70 may be reduced ;

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

Regulation (EEC) No 756/70 is hereby amended as follows :

1. The first paragraph of Article 1 is replaced as follows

'Aid shall be granted to producers of casein and caseinates only if these products :

— have been manufacted from skimmed milk or raw casein extracted from milk of Community origin, and

— are used within the Community in accordance with the conditions laid down in Article 4 (4),

— are exported in accordance with the conditions laid down in Article 4 (3).'

2. In Article 2 (1), '7.39 ECU' is replaced by 'ECU 6,65'.

3. In Article 3 (2), subparagraph (d) is replaced as follows :

'(d) the date of manufacture of the casein or caseinates, and the quantity produced, identified by manufacturing batch number ;'.

4. Article 4 is amended as follows :

(a) Paragraph 1 is replaced as follows :

'1. Aid shall be granted :

(a) on the basis of a written application submitted to the competent body, and giving :

(i) the name and address of the producer ;

(ii) the quantity of casein or caseinates he has manufactured and for which he is requesting aid ;

(iii) the manufacturing batch numbers of the products for which the aid is requested ;

(b) on condition that the quantity of casein or caseinates :

— has been manufactured in accordance with Articles 1 and 2,

— is subject to customs or equivalent administrative control and the provision of a security equal to the amount of aid plus 10 % to ensure compliance with the

[1] OJ No L 148, 28. 6. 1968, p. 13.
[2] OJ No L 110, 29. 4. 1988, p. 27.
[3] OJ No L 169, 18. 7. 1968, p. 6.
[4] OJ No L 311, 17. 11. 1988, p. 6.
[5] OJ No L 91, 25. 4. 1970, p. 28.
[6] OJ No L 139, 4. 6. 1988, p. 10.

primary requirement that the products be used in accordance with paragraph 4 or exported in accordance with paragraph 3.

The security shall be lodged in the Member State in whose territory the casein or caseinates :

— have been manufactured,

or

— have been used in accordance with paragraph 4.

The security referred to in the preceding subparagraph shall be lodged without prejudice to the requirement that the manufacturer or any subsequent holder of the goods can use all legal means to ensure proper execution of subsequent contracts.'

(b) The following paragraphs are added :

'3. Where the casein or caseinates are exported, the security referred to in paragraph 1 shall be released providing that customs formalities for release for consumption in the third country have been completed within 24 months of the date of manufacture. Proof of this shall be furnished in accordance with Article 18 of Commission Regulation (EEC) No 3665/87 (*).

However, at the request of the party concerned, 50 % of the security may be released providing that the products have left the customs territory of the Community within 12 months of the date of manufacture.

4. Where the products are used in the territory of the Community, the security shall be released providing that it has been ascertained that the casein or caseinates :

— have been delivered within 18 months of the date of manufacture to an establishment bound by the undertaking referred to in paragraph 5,

— have been used within 18 months of the date of manufacture in accordance with paragraph 6.

5. In the case referred to in the first indent of paragraph 4, the user shall make a declaration :

— confirming that he does not manufacture any of the products covered by Chapter 4 of the combined nomenclature,

— undertaking not to re-sell, either in the same state or as a mixture, the casein or caseinates for which aid pursuant to this Regulation has been paid.

For the purposes of this paragraph, "mixture" shall mean a product composed principally of casein or caseinates and other milk products suitable for use in the manufacture of products covered by Chapter 4 of the combined nomenclature and marketed in packages containing not less than 5 kg of product,

— undertaking to forego any entitlement under this paragraph and to inform the competent authorities thereof should any product covered by Chapter 4 of the combined nomenclature be produced,

— stating that he is aware of the penalties to which he will be open if any check by the authorities should reveal that the undertakings he has made have not been complied with.

Without prejudice to any penalties which are or may become applicable in the Member State concerned, the competent body shall be owed a sum equal to the security referred to in paragraph 1 for the quantities of casein or caseinates concerned.

6. In the case referred to in the second indent of paragraph 4, the security shall be released on the production of evidence that the casein or caseinates concerned have been incorporated into an end product not covered by Chapter 4 of the combined nomenclature.

However, if the end product is covered by CN code 0406 30, the security shall be released for quantities of casein or caseinates equivalent to 2 % of the weight of the end product.

Compliance with the prescribed use shall be ascertained by a specific on-the-spot check by the competent body of the Member State. The check shall include the inspection of manufacturing conditions and registers showing the quantities of casein and caseinates processed, identified by their manufacturing batch number, and the quantity, composition and casein or caseinate content of the end products.

(*) OJ No L 351, 14. 12. 1987, p. 1.'

5. The following Article 4a is inserted :

'Article 4a

Where the check on product use provided for in Article 4 (3) or (4) is carried out by the authorities of several Member States, the control copy T 5 form or forms used for the products, in accordance with the provisions of Commission Regulation (EEC) No 2823/87 (*), shall constitute the proof required.

In such cases, one of the following remarks must be inserted in section 104 of the control copy T 5 form :

— Producto destinado a la exportación fuera del territorio aduanero de la Comunidad o a la incorporación a un producto final conforme a lo dispuesto en los apartados 3 o 4 del artículo 4 del Reglamento (CEE) nº 756/70

— produkt beregnet til eksport uden for Fællesskabets toldområde eller til iblanding i en færdigvare i overensstemmelse med artikel 4, stk. 3 eller 4, i forordning (EØF) nr. 756/70

— Erzeugnis, das zur Ausfuhr aus dem Zollgebiet der Gemeinschaft oder zur Beimischung in ein Enderzeugnis gemäß Artikel 4 Absatz 3 oder 4 der Verordnung (EWG) Nr. 756/70 bestimmt ist

— Προϊόν που προορίζεται για εξαγωγή εκτός του τελωνειακού εδάφους της Κοινότητας ή για την ενσωμάτωση σε ένα τελικό προϊόν σύμφωνα με το άρθρο 4 παράγραφοι 3 ή 4 του κανονισμού (ΕΟΚ) αριθ. 756/70

— product to be exported from the customs territory of the Community or incorporated into an end product in accordance with Article 4 (3) or (4) of Regulation (EEC) No 756/70

— Produit destiné à l'exportation hors du territoire douanier de la Communauté ou à l'incorporation dans un produit final conformément à l'article 4 paragraphe 3 ou 4 du règlement (CEE) n° 756/70

— Produkt bestemd voor uitvoer buiten het douanegebied van de Gemeenschap of voor bijmenging in een eindprodukt overeenkomstig het bepaalde in artikel 4, lid 3 of lid 4, van Verordening (EEG) nr. 756/70

— prodotto destinato all'esportazione fuori dal territorio doganale della Comunità o all'incorporazione in un prodotto finale conformemente all'articolo 4, paragrafi 3 o 4 del regolamento (CEE) n. 756/70

— Produto destinado à exportação para fora do território aduaneiro da Comunidade ou à incorporação num produto final, em conformidade com os n.os 3 ou 4 do artigo 4.º do Regulamento (CEE) n.º 756/70.

Where the security is lodged in a Member State other than that in which the casein or caseinates were manufactured, the document establishing the Community origin of the products dispatched from the Member State of manufacture to the Member State in which the security is lodged must bear one of the following remarks in section 44. The same special marks must be mentioned in section 44 of the declaration of release for consumption :

— Producto destinado a la incorporación a un producto final conforme a lo dispuesto en el apartado 4 del artículo 4 del Reglamento (CEE) nº 756/70

— produkt beregnet til at blande i en færdigvare i overensstemmelse med artikel 4, stk. 4, i forordning (EØF) nr. 756/70

— Erzeugnis, das zur Beimischung in ein Enderzeugnis gemäß Artikel 4 Absatz 4 der Verordnung (EWG) Nr. 756/70 bestimmt ist

— Προϊόν που προορίζεται για την ενσωμάτωση στο τελικό προϊόν σύμφωνα με το άρθρο 4 παράγραφος 4 του κανονισμού (ΕΟΚ) αριθ. 756/70

— product to be incorporated into an end product in accordance with Article 4 (4) of Regulation (EEC) No 756/70

— Produit destiné à l'incorporation dans un produit final conformément à l'article 4 paragraphe 4 du règlement (CEE) n° 756/70

— prodotto destinato all'incorporazione in un prodotto finale conformemente all'articolo 4, paragrafo 4 del regolamento (CEE) n. 756/70

— Produkt bestemd voor bijmenging in een eindprodukt overeenkomstig artikel 4, lid 4, van Verordening (EEG) nr. 756/70

— Produto destinado à incorporação num produto final, em conformidade com o n.º 4 do artigo 4.º do Regulamento (CEE) n.º 756/70.

(*) OJ No L 270, 23. 9. 1987, p. 1.'

Article 2

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

It shall apply to casein and caseinates manufactured from 1 March 1989 onwards. However, Article 1 (2) shall apply to products manufactured from 1 January 1989 onwards.

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

Done at Brussels, 30 December 1988.

For the Commission

Frans ANDRIESSEN

Vice-President