COMMISSION REGULATION (EEC) No 3278/91

of 8 November 1991

laying down detailed rules for the sale of butter from intervention stocks for export to Albania and amending Regulation (EEC) No 569/88

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 1630/91 (2), and in particular Article 6 (7) thereof,

Having regard to Council Regulation (EEC) No 1678/85 of 11 June 1985 on the exchange rates to be applied in agriculture (3), as last amended by Regulation (EEC) No 1640/91 (4), and in particular Article 4 thereof,

Whereas Article 6 of Council Regulation (EEC) No 985/68 of 15 July 1968 laying down general rules for intervention on the market in butter and cream (5), as last amended by Regulation (EEC) No 2045/91 (6), provides that special conditions may be laid down when butter is puton sale for export in order to take account of the special requirements for such sales and to ensure that the product is not diverted from its destination;

Whereas the quantities of butter now in public storage are such that a major effort should be made to take advantage of opportunities for disposal on the markets of certain third countries without disturbing the world market; whereas th supply situation in Albania is such that part of this stock should be put up for sale for export to Albania and an invitation to tender should be organized, *inter alia*, to determine the mininum selling price;

Whereas, in view of the urgency and specific nature of this operation and the need for controls, special provisions should be laid down in particular as regards the minimum quantity which ay be bought, its origin and the date by which it must be exported; whereas measures should be adopted to ensure that butter sold under this Regulation is not released for free circulation in the Community;

Whereas in order to ensure that the butter is not diverted from its intended destination, a control system should be applied from the time the butter is removed from storage until it arrives at its destination in the third country concerned; whereas for reasons of clarity it should be made clear that the control provisions laid down in Commission Regulation (EEC) No 569/88 (7), as last amended by Regulation (EEC) No 3277/91 (8), apply; whereas, moreover, in view of the specific nature of the transaction, additional conditions must be laid down;

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. A sale shall take place, under the conditions laid down in this Regulation, of 4 000 tonnes of butter bought in pursuant to Article 6 (1) of Regulation (EEC) No 804/68 which entered storage in Spain before 1 September 1990.

2. Butter sold pursuant to this Regulation shall be imported into Albania.

Article 2

1. The butter shall be sold ex-cold storage depot by an invitation to tender organized by the Spanish intervention agency, hereinafter referred to as 'the intervention agency'.

2. The Regulation shall take the place of an invitation to tender.

3. The address of the intervention agency is:

Servicio Nacional de Productos Agrarios (SENPA), Calle de Beneficiendia 8, E-28004 Madrid. Telephone: (34-1) 347 65 00 or 347 63 10; telex: 41818 SENPA E-234 27; telefax: (34-1) 521 98 32 or 522 43 87.

4. The closing date for the submission of tenders shall be 12 noon on 12 November 1991.

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 150, 15. 6. 1991, p. 19.
(3) OJ No L 164, 24. 6. 1985, p. 11.
(4) OJ No L 150, 15. 6. 1991, p. 38.
(5) OJ No L 169, 18. 7. 1968, p. 1.
(6) OJ No L 187, 13. 7. 1991, p. 1.
(7) OJ No L 55, 1. 3. 1988, p. 1.
(8) See page 46 of this Official Journal.

Article 3

1. The intervention agency shall make available to interested parties, at their request, a list of the cold storage depots in which the butter put up for sale by tender is stored and of the corresponding quantities.

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

Article 4

1. Interested parties shall either loge their tenders in writing with the intervention agency against an acknowledgement of receipt or forward them by registered letter to the intervention agency. The intervention agency may authorize the use of telexes.

2. Tenders shall state :

(a) the name and address of the tenderer,

(b) the total quantity applied for,

(c) the price tendered per tonne of butter, not including domestic taxes, excold storage depot, expressed in ecus,

(d) the cold storage depot or depots where the butter is held.

3. Tenders shall be valid only if :

(a) they relate to a minimum quantity of 1 000 tonnes ;

(b) they are accompanied by a written undertaking by the tenderer to export the butter allocated to him to Albania within the time limit laid down in Article 8 (3) ;

(c) proof is furnished that the tenderer has lodged, before the expiry of the deadline for the submission of tenders, the tendering security referred to in Article 5.

4. Tenders may not be withdrawn after the expiry of the deadline for the submission of tenders referred to in Article 2 (4).

Article 5

1. Under this Regulation the maintenance of tenders after the expiry of the deadline for the submission of tenders and the payment of the price within the time limit laid down in the first subparagraph of Article 7 (1) shall constitute primary requirements whose fulfilment shall be ensured by the lodging of a tendering security of ECU 10 per tonne.

2. The tendering security shall be lodged in Spain.

Article 6

1. A minimum selling price shall be fixed, taking account of the tenders received and in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68. Tender shall be rejected if the proposed price is lower than the minimum price. Where two or more tenders under consideration offering the same prices or the same difference from the minimum price relate to a total quantity exceeding the quantity available, the quantity available shall be allocated proportionately to the quantities tendered for.

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

2. At the same time as the minimum selling price is fixed and in accordance with the same procedure, the security to guarantee the fulfilment of the primary requirement concerning export of the butter ot Albania within the period laid down in Article 8 (3) shall be fixed.

3. The minimum selling price referred to in paragraph 1, the price to be paid by successful tenderers and the securities provided for in Article 5 and in paragraph 2 shall be converted into national currency using the agricultural conversion rate applicable on the closing date for the submission of tenders.

4. Obligations arising from this invitation to tender shall not be transferable.

5. Tenderers shall be informed forthwith by the intervention agency of the outcome of tenders.

6. The intervention agency shall issue a removal order showing :

(a) the quantity in respect of which the security has been lodged,

(b) the cold storage depot in which it is stored,

(c) the closing date for removal.

Article 7

1. The successful tenderer shall remove the butter which has been sold to him within 45 days following the closing date the submission of tenders.

The butter may be removed in batches, each of which may not be less than 15 tonnes.

Except in cases of *force majeure*, where the butter is not removed within the time limit laid down in the first subparagraph, storage shall be at the expense of the successful tenderer with effect from the first day thereafter.

2. Within the time limit laid down in paragraph 1, before removal of the butter, and in respect of each quantity he removes, the successful tenderer shall pay the intervention agency the price shown in his tender and shall lodge the security referred to in Article 6 (2).

Except in cases of *force majeure*, where the successful orderer has failed to make the payment referred to in the first subparagraph within the prescribed period, the security referred to in Article 5 (1) shall be forfeited and the sale shall be cancelled as regards the remaining quantities.

Article 8

1. The butter shall be supplied by the intervention agency in packaging bearing at least one of the following descriptions in clearly visible and legible letters :

— Mantequilla destinada a la exportación a Albania en virtud del Reglamento (CEE) nº 3278/91 ;

— Smør bestemt til udførsel til Albanien i henhold til forordning (EØF) nr. 3278/91 ;

— Butter zur Ausfuhr nach Albanien — Verordnung (EWG) Nr. 3278/91 ;

— Βούτυρο που προορίζεται να εξαχθεί στην Αλβανία βάσει του κανονισμού (ΕΟΚ) αριθ. 3278/91 ·

— Butter for export to Albania under Regulation (EEC) No 3278/91 ;

— Beurre destiné à être exporté en Albanie au titre du règlement (CEE) n° 3278/91 ;

— Burro destinato ad essere esportato in Albania nel quadro del regolamento (CEE) n. 3278/91 ;

— Boter voor uitvoer naar Albanië in het kader van Verordening (EEG) nr. 3278/91 ;

— Manteiga destinada a ser exportada para a Albânia em conformidade com o Regulamento (CEE) nº 3278/91.

2. The butter referred to in paragraph 1 may be exported in its original packaging or after repackaging.

If the butter is repackaged, the packaging shall bear at least one of the descriptions in paragraph 1 in clearly visible, legible letters.

3. Acceptance by the customs service of the export declaration for the butter referred to in this Article must take place in the Member State where the butter has been removed from storage, within 90 days following the closing date for the submission of tenders.

Article 9

1. Except in cases of *force majeure*, the security referred to in Article 6 (2) shall be forfeit in proportion to the quantities for which the proof referred to in Article 18 opf Regulation (EEC) No 569/88 has not been furnished within 12 months of the date of acceptance of the export declaration.

However, if the proof is furnished within the 18 months following the abovementioned period, 85 % of the security shall be reimbursed.

2. The provisions of Regulations (EEC) No 569/68 and (EEC) No 2220/85 [1] shall apply except where this Regulation provides otherwise.

The special entries to be made in Sections 104 and 106 of the control copy shall be those set out in point (112) of Part I of the Annex to Regulation (EEC) No 569/88.

Article 10

The following point and the relevant footnote are hereby added to Part I (Products to be exported in the same state as that in which they were when removed from intervention stock) of the Annex to Regulation (EEC) No 569/88.

'112. Commission Regulation (EEC) No 3278/91 of 8 November 1991 laying down detailed rules for the sale of butter from intervention stocks for export to Albania [112] ;

[112] OJ No L 308, 9. 11, 1991, p. 49.'

Article 11

No export refund shall be granted in respect of the butter sold under this Regulation.

The removal order referred to in Article 3 of Regulation (EEC) No 569/88, the export declaration and, where applicable, the T5 control copy shall bear the following :

'Sin restitución [Reglamento (CEE) n° 3278/91];

Uden restitution [Forordning (EØF) nr. 3278/91];

Keine Erstattung [Verordnung (EWG) Nr. 3278/91];

Χωρίς επιστροφή [Κανονισμός (ΕΟΚ) αριθ. 3278/91];

Without refund [Regulation (EEC) No 3278/91];

Sans restitution [Règlement (CEE) n° 3278/91];

Senza restituzione [Regolamento (CEE) n. 3278/91];

Zonder restitutie [Verordening (EEG) nr. 3278/91];

Sem restituição [Regulamento (CEE) nº 3278/91].'.

Article 12

The intervention agency shall notify the Commission forthwith of the quantities of butter which are covered by a sales contract and removed under this Regulation.

Article 13

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, 8 November 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

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