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COMMISSION REGULATION (EEC) No 3378/91

of 20 November 1991

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

(OJ L 319, 21.11.1991, p. 40)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Commission Regulation (EEC) No 60/92 of 9 January 1992	L 6	17	11.1.1992
►**M2**	Commission Regulation (EEC) No 1321/92 of 22 May 1992	L 140	16	23.5.1992
►**M3**	Commission Regulation (EEC) No 1810/92 of 2 July 1992	L 183	15	3.7.1992
►**M4**	Commission Regulation (EEC) No 3774/92 of 23 December 1992	L 383	48	29.12.1992
►**M5**	Commission Regulation (EEC) No 227/93 of 3 February 1993	L 27	15	4.2.1993
►**M6**	Commission Regulation (EEC) No 1756/93 of 30 June 1993	L 161	48	2.7.1993
►**M7**	Commission Regulation (EEC) No 1762/93 of 1 July 1993	L 161	64	2.7.1993
►**M8**	Commission Regulation (EC) No 3659/93 of 29 December 1993	L 333	58	31.12.1993
►**M9**	Commission Regulation (EC) No 100/94 of 20 January 1994	L 18	6	21.1.1994
►**M10**	Commission Regulation (EC) No 360/94 of 17 February 1994	L 46	41	18.2.1994
►**M11**	Commission Regulation (EC) No 1053/94 of 4 May 1994	L 115	5	6.5.1994
►**M12**	Commission Regulation (EC) No 1296/94 of 3 June 1994	L 141	26	4.6.1994
►**M13**	Commission Regulation (EC) No 1655/94 of 7 July 1994	L 174	19	8.7.1994
►**M14**	Commission Regulation (EC) No 2283/94 of 20 September 1994	L 248	5	23.9.1994
►**M15**	Commission Regulation (EC) No 3337/94 of 23 December 1994	L 350	66	31.12.1994
►**M16**	Commission Regulation (EC) No 1802/95 of 25 July 1995	L 174	27	26.7.1995
►**M17**	Commission Regulation (EC) No 124/1999 of 20 January 1999	L 16	19	21.1.1999

Corrected by:

►**C1** Corrigendum, OJ L 203, 29.8.1995, p. 17 (1802/95)

NB: This consolidated version contains references to the European unit of account and/or the ecu, which from 1 January 1999 should be understood as references to the euro — Council Regulation (EEC) No 3308/80 (OJ L 345, 20.12.1980, p. 1) and Council Regulation (EC) No 1103/97 (OJ L 162, 19.6.1997, p. 1).

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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 arid milk products ([1]), as last amended by Regulation (EEC) No 1630/91 ([2]), and in particular Articles 6 (7) and 28 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 put on 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 make use of opportunities for disposing of it on the market of certain third countries without in any way interfering with the world market;

Whereas, therefore, quantities of butter in public storage should be made available to operators and invitations to tender organized in order, *inter alia,* to determine the minimum selling prices so that the Community's international commitments may be met; whereas measures should also be adopted to ensure that butter sold under this Regulation is not released in the Community;

Whereas, in order to increase the scope for sales opportunities on certain international markets, provision should be made for the butter to be exported in the unaltered state or after processing;

Whereas operators may buy the butter in question throughout the community; whereas steps should be taken, therefore, to adjust the monetary compensatory amounts in relation to the level of the selling prices of the butter from intervention;

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 stock 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 of 16 February 1988 laying down common detailed rules for verifying the use and/or destination of products from intervention ([7]), as last amended by Regulation (EEC) No 3278/91 ([8]), apply; whereas, moreover, in view of the specific nature of the transaction, additional conditions must be laid down;

([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]) OJ No L 308, 9. 11. 1991, p. 49.

▼B

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

1. The sale shall take place, under the conditions laid down in this Regulation, of butter bought in pursuant to Article 6 (1) of Regulation (EEC) No 804/68, which entered into storage before ►**M14** 1 February 1992 ◄.

2. Butter sold pursuant to this Regulation shall be exported in the unaltered state or after processing.

Article 2

1. The butter shall be sold ex-cold storage depot in accordance with the standing invitation to tender organized by each intervention agency for the relevant quantities of butter it holds.

2. The intervention agencies shall draw up a notice of invitation to tender stating:

(a) the quantities of butter put on sale;

(b) the closing date and place for the submission of tenders.

3. The notices of invitation to tender shall be published in the *Official Journal of the European Communities* not less than eight days prior to the expiry of the first deadline fixed for the submission of tenders. The intervention agencies may, in addition, insert the notices in other publications.

Article 3

1. During the term of validity of the standing invitation to tender, the intervention agencies shall organize special invitations to tender. Each of the latter shall cover any of the butter referred to in Article 1 remaining available.

2. ►**M17** The time limit for submission of tenders in response to the individual invitations to tender shall be 12 noon (Brussels time) on the second and fourth Tuesday of the month except for the second Tuesday of August and the fourth Tuesday of December. If Tuesday is a public holiday the time limit shall be 12 noon (Brussels time) on the previous working day. ◄

Article 4

1. Intervention agencies shall keep up to date and 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. The intervention agencies shall in addition publish this updated list regularly, in an appropriate form which they shall specify in the notices of invitation to tender referred to in Article 2.

2. Intervention agencies 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 5

1. Interested parties shall participate in special invitations to tender either by lodging their written tenders with the intervention agency against an acknowledgment of receipt or by forwarding a registered letter to the intervention agency or by any other means of written telecommunication.

▼B

2. Tender shall state:

(a) the name and address of the tenderer;

▼M1

(b) the quantity applied for, specifying if the butter is to be exported unprocessed or after processing into concentrated butter;

(c) the intended country or countries of destination of the butter;

▼B

(d) the price tendered per tonne of butter, not including domestic taxes, ex-cold storage depot, expressed in ecus;

(e) the cold storage depots where the butter is held.

▼M1

▼B

3. Tenders shall be valid only if:

▼M1

(a) they cover a minimum of 500 tonnes;

▼B

(b) they are accompanied by a written undertaking by the tenderer to export the butter allocated to him in the unaltered state within the time limit laid down in Article 9 (3) or after processing within the time limit laid down in Article 10 (5);

(c) proof if furnished that tenderers have lodged, before the expiry of the deadline for the submission of tenders, the tendering security referred to in Article 6 for the special invitation to tender concerned.

4. Tenders may not be withdrawn after the expiry of the deadline referred to in Article 3 (2) for the submission of tenders relating to the special invitation to tender concerned.

Article 6

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 referred to in the first subparagraph of Article 8 (1) shall constitute primary requirements whose fulfilment shall be ensured by the lodging of a security of ECU ►**M16** 12 ◄ per tonne.

2. Tendering securities shall be lodged in the Member States in which tenders are submitted.

However if the tender states that the butter is to be processed into concentrated butter in a Member State other than that of submission of the tender, the security may be lodged with the competent authority designated by the former Member State, which shall provide the tenderer with the proof referred to in Article 5 (3) (c). In that case, the intervention agency concerned shall inform the competent authority of the latter Member State of the facts resulting in release or seizure of the security.

Article 7

1. A minimum selling price for butter to be exported in the unaltered state and a minimum selling price for butter to be exported after processing shall be fixed in the light of the tenders received and in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68. Tenders shall be rejected if the proposed price is lower than the minimum price. Where two or more tenders under consideration relating to the same store and offering the same prices or the same difference from the minimum price relate to a total quantity

▼B

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 prices are fixed and in accordance with the same procedure, the following shall be fixed:

(a) the amount of the security to guarantee the fulfilment of the primary requirements concerning export of the butter in the unaltered state within the time limit laid down in Article 9 (3) or after processing within the time limit laid down in Article 10 (5);

(b) the coefficient applying to the monetary compensatory amounts applicable, where appropriate, to the butter sold.

▼M6

▼B

4. Obligations arising under the invitation to tender shall not be transferable.

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

6. The intervention agencies shall issue removal orders 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 8

1. The successful tenderers shall remove the butter which has been sold to them within 45 days following the closing date for the submission of tenders under the special invitation to tender concerned.

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

Except in case of *force majeure*, where the butter is not removed within the time limit referred to in the first subparagraph, storage shall be at the expense of the successful tenderer with effect from the first day following the expiry of that time limit.

2. The successful tenderer shall pay the intervention agency within the time limit referred to in paragraph 1, before removal of the butter, and in respect of each quantity he removes, the price shown in their tenders and shall lodge the security referred to in Article 7 (2). Securities shall be lodged in the Member State where the tender is submitted.

However, if the tender states that the butter is to be processed into concentrated butter in a Member State other than that of submission of the tender, the security referred to in Article 7 (2) ►**M1** shall be lodged ◄ with the competent authority designated by the former Member State.

In that case, the intervention agency concerned shall inform the competent authority of the latter Member State of the facts resulting in release or seizure of the security.

Except in cases of *force majeure*, where the successful tenderer has failed to make the payment referred to in the first subparagraph within the time limit laid down, in addition to the loss of the security referred to in Article 6 (1), the sale shall be cancelled for the remaining quantities.

Article 9

1. Butter for export in the unaltered state shall be supplied by the intervention agency in packaging bearing at least one of the following descriptions in clearly visible and legible letters:

▼B

— Mantequilla destinada a la exportación con arreglo al Reglamento (CEE) nº 3378/91;

— Smør bestemt til udførsel i henhold til forordning (EØF) nr. 3378/91;

— Butter zur Ausfuhr — Verordnung (EWG) Nr. 3378/91;

— Βούτυρο που προορίζεται να εξαχθεί βάσει του κανονισμού (ΕΟΚ) αριθ. 3378/91·

— Butter for export under Regulation (EEC) No 3378/91;

— Beurre destiné à être exporté au titre du règlement (CEE) nº 3378/91;

— Burro destinato ad essere esportato nel quadro del regolamento (CEE) n. 3378/91;

— Boter voor uitvoer in het kader van Verordening (EEG) nr. 3378/91;

— Manteiga destinada à exportação em conformidade com o Regulamento (CEE) nº 3378/91;

▼M15

— Asetuksen (ETY) N:o 3378/81 mukaisesti vietäväksi tarkoitettu voi;

— Smör för export enligt förordning (EEG) nr 3378/91.

▼B

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

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

3. The 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 store, within 90 days following the closing date for the submission of tenders under the special invitation to tender concerned.

Article 10

1. Butter sold pursuant to this Regulation may be exported after processing.

2. In that case, the tender must:

— specify the quantity of butter sold that will be processed,

— include an undertaking to notify the competent authorities, before the removal of the butter, of the undertakings in which processing will be carried out, approved for that purpose by the Member State on whose territory the processing will take place in accordance with Article 10 of Commission Regulation (EEC) No 570/88 ([1]).

3. 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 transformación [Reglamento (CEE) nº 3378/91];

— Smør til forarbejdning [forordning (EØF) nr. 3378/91];

— Zur Verarbeitung bestimmte Butter [Verordnung (EWG) Nr. 3378/91];

— Βούτυρο που προορίζεται για μεταποίηση [Κανονισμός (ΕΟΚ) αριθ. 3378/91];

— Butter for processing [Regulation (EEC) No 3378/91];

— Beurre destiné à la transformation [règlement (CEE) nº 3378/91];

— Burro destinato alla trasformazione [regolamento (CEE) n. 3378/91];

— Boter voor verwerking [Verordening (EEG) nr. 3378/91];

— Manteiga destinada à transformação [Regulamento (CEE) nº 3378/91];

([1]) OJ No L 55, 1. 3. 1988, p. 31.

▼M15

— Jalostettavaksi tarkoitettu voi — asetus (ETY) N:o 3378/91;

— Smör för beredning (förordning (EEG) nr 3378/91).

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4. The total quantity of butter referred to in the first indent of paragraph 2 above shall be processed at the undertakings referred to in the second indent of the same paragraph into a product with a milk fat content by weight of more than 99,5 % and shall produce at least 100 kilograms of concentrated butter per 122,1 kilograms of butter used.

Processed butter as referred to in the first subparagraph shall be exported after repackaging in packaging bearing at least one of the following descriptions in clearly visible, legible letters:

— Mantequilla concentrada destinada a la exportación con arreglo al Reglamento (CEE) nº 3378/91;

— Koncentreret smør bestemt til udførsel i henhold til forordning (EØF) nr. 3378/91;

— Zur Ausfuhr bestimmtes Butterfett — Verordnung (EWG) Nr. 3378/91;

— Συμπυκνωμένο βούτυρο που προορίζεται να εξαχθεί βάσει του κανονισμού (ΕΟΚ) αριθ. 3378/91;

— Concentrated butter for export under Regulation (EEC) No 3378/91;

— Beurre concentré destiné à être exporté au titre du règlement (CEE) nº 3378/91;

— Burro concentrato destinato all'esportazione a norma del regolamento (CEE) n. 3378/91;

— Boterconcentraat voor uitvoer op grond van Verordening (EEG) nr. 3378/91;

— Manteiga concentrada destinada à exportação em conformidade com o Regulamento (CEE) nº 3378/91;

▼M15

— Asetuksen (ETY) N:o 3378/81 mukaisesti vietäväksi tarkoitettu voiöljy;

— Koncentrerat smör för export enligt förordning (EEG) nr 3378/91.

▼M1

However, if the milk fat content by weight exceeds 99,8 %, the quantity of butter to be used to produce a minimum of 100 kilograms of concentrated butter shall be increased to 122,5 kilograms.

▼B

5. The acceptance by the customs service of the export declaration for the butter processed in accordance with this Article must take place in the Member State where the butter has been processed, within 120 days following the closing date for the submission of tenders under the special invitation to tender concerned.

6. From the time of removal of the butter and until the final product is exported, the butter referred to in Article 9 and products processed in accordance with paragraphs 4 and 5 shall be placed under customs control or shall be subject to an administrative control offering equivalent guarantees.

Article 11

▼M1

The competent authorities of the Member States on whose territory the processing and repackaging operations referred to in Articles 9 and 10 are carried out shall supervise those operations.

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The costs of such supervision shall be borne by the operator concerned.

Article 12

1. Except in cases of *force majeure,* the security referred to in Article 7 (2) shall be forfeit in proportion to the quantities for which the proof referred to in ►M4 Article 15 of Commission Regulation (EEC) No

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3002/91 (1) ◄ is not 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.

▼M4

2. The provisions of Commission Regulations (EEC) No 3002/92 and (EEC) No 2220/85 (2) shall apply except where this Regulation provides otherwise.

Article 13

1. In addition to the endorsements provided for in Regulation (EEC) No 3002/92, the T 5 control copy must carry one of the following endorsements:

(a) on the dispatch of the butter for processing:

— Section 104:

Destinada a la transformación y exportación posterior [Reglamento (CEE) nº 3378/91]

Til forarbejdning og senere eksport [Forordning (EØF) nr. 3378/91]

Zur Verarbeitung und späteren Ausfuhr bestimmt [Verordnung (EWG) Nr. 3378/91]

Προοριζόμενο για μεταποίηση και για μετέπειτα εξαγωγή [κανονισμός (ΕΟΚ) αριθ. 3378/91]

Intended for processing and, subsequently, export [Regulation (EEC) No 3378/91]

Destiné à la transformation et à l'exportation [règlement (CEE) nº 3378/91]

Destinato alla trasformazione e alla successiva esportazione [regolamento (CEE) n. 3378/91]

Bestemd om te worden verwerkt en vervolgens te worden uitgevoerd [Verordening (EEG) nr. 3378/91]

Destinada à transformação à exportação posterior [Regulamento (CEE) n.º 3378/91]

▼M15

Tarkoitettu jalostettavaksi ja vietäväksi [asetus (ETY) N:o 3378/91]

Avsett för beredning och därpå följande export (förordning (EEG) nr 3378/91).

▼M4

— Section 106:

the closing date for removing the butter;

(b) on the export of the finished product:

— Section 104:

Mantequilla concentrada destinada a la exportación [Reglamento (CEE) nº 3378/91]

Koncentreret smør bestemt til eksport [forordning (EØF) nr. 3378/91]

Zur Ausfuhr bestimmtes Butterfett [Verordnung (EWG) Nr. 3378/91]

Συμπυκνωμένο βούτυρο προοριζόμενο για εξαγωγή [κανονισμός (ΕΟΚ) αριθ. 3378/91]

(1) OJ No L 301, 17. 10. 1992, p. 17.
(2) OJ No L 205, 3. 8. 1985, p. 5.

▼M4

Concentrated butter for export [Regulation (EEC) No 3378/91]

Beurre concentré destiné à l'exportation [règlement (CEE) nº 3378/91]

Burro concentrato destinato all'esportazione [regolamento (CEE) n. 3378/91]

Boterconcentraat bestemd voor uitvoer [Verordening (EEG) nr. 3378/91]

Manteiga concentrada destinada à exportação [Regulamento (CEE) n.º 3378/91]

▼M15

Vietäväksi tarkoitettu voiöljy [asetus (ETY) N:o 3378/91]

Koncentrerat smör för export (förordning (EEG) nr 3378/91).

▼M4

— Section 106:

— the closing date for removing the butter,

— the weight of butter used to manufacture the quantity of the finished product shown in Section 103.

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Article 14

1. No export refund shall be granted in respect of the butter sold under this Regulation. Accession compensatory amounts shall not apply. The monetary compensatory amounts applicable to butter sold under this Regulation shall be multiplied by the coefficient fixed in accordance with Article 7 (2).

2. The removal orders referred to in ►M4 Article 3 (1) (b) of Regulation (EEC) No 3002/92 ◄, export declarations and, where applicable, T5 control copies shall bear the following:

'Sin restitución [Reglamento (CEE) nº 3378/91];

Uden restitution [Forordning (EØF) nr. 3378/91];

Keine Erstattung [Verordnung (EWG) Nr. 3378/91];

Χωρίς επιστροφή [Κανονισμός (ΕΟΚ) αριθ. 3378/91];

Without refund [Regulation (EEC) No 3378/91];

Sans restitution [Règlement (CEE) nº 3378/91];

Senza restituzione [Regolamento (CEE) n. 3378/91];

Zonder restitutie [Verordening (EEG) nr. 3378/91];

Sem restituição [Regulamento (CEE) nº 3378/91];

▼M15

Ilman korvausta [asetus (ETY) N:o 3378/91];

Utan exportbidrag (förordning (EEG) nr 3378/91).'

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Article 15

The Member States shall notify the Commission forthwith of the quantities of butter which are the subject of:

— a sales contract,

— removal,

— processing,

under this Regulation.

Article 16

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.